

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON EDUCATION

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January 29, 2009

Start: 1:15pm

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HELD AT: Council Chambers  
City Hall

B E F O R E:

ROBERT JACKSON  
Chairpersons

COUNCIL MEMBERS:

Lewis A. Fidler  
Bill De Blasio  
Simcha Felder  
Helen D. Foster  
Melinda R. Katz  
John C. Liu  
David Yassky  
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Daniel R. Garodnick  
Jessica S. Lappin  
James Vacca  
Vincent Ignizio  
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## A P P E A R A N C E S (CONTINUED)

Dr. Marcia Lyles  
Deputy Chancellor for Teaching and Learning  
Department of Education

Bonnie Brown  
Superintendent, District 75  
Department of Education

Linda Wernikoff  
Executive Director, Office of Special Ed Initiatives  
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Carmen Alvarez  
Vice President, Special Education  
United Federation of Teachers

Maggie Moroff  
Coordinator  
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Christopher Treiber  
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Parents for Inclusive Education

Linda Ostreicher  
Director of Public Policy  
Center for Independence of the Disabled, NY

Kim Sweet  
Executive Director  
Advocates for Children

Lisa Isaacs  
Director, Education Law Program  
New York Lawyers for the Public Interest

Ellen McHugh  
Associate Director  
Parent to Parent New York State

## A P P E A R A N C E S (CONTINUED)

Jean Mizutani  
Resources for Children with Special Needs

Lizabeth Pardo  
MPC Attorney  
Sinergia

Raphael Rivas  
Youth in Transition Coordinator  
Brooklyn Center for Independence of the Disabled

Maria Garcia  
President  
Parents of Blind Children of New York

Milton Williams  
Parents of Blind Children of New York

Rachelle Jean-Baptiste  
Parents of Blind Children of New York

Patricia Connelly  
Citywide Council on Special Education

Bernard Yee  
Concerned Citizen

Susan Crawford  
Right to Read Project

Jo Anne Simon, Esq.  
President  
International Dyslexia Association, New York Branch

CHAIRPERSON JACKSON: Good

afternoon everyone and welcome to today's Education Committee oversight hearing on the impact of the Department of Education's reorganization of special education. And before I begin my opening statement, I'm going to introduce my colleague, singular, that's present, that's Jimmy Vacca of the Bronx. And I have received numerous phone calls from my other colleagues that are next door in the Public Safety Committee on CCRB, and we have other colleagues across the street in other hearings on Cultural Affairs. So you'll see some of them coming in and out during this hearing process. Let me just introduce the staff that are sitting here. To my left, is Jan Atwell, Aysa Schomberg, and Regina Poreda-Ryan. We've also been joined by our colleague, John Liu from Queens. Special education has long been a problem in New York City. For decades it has been perceived as a dumping ground for children with behavioral problems, most often Black and Latino boys. Besides the inappropriate referrals and placement of children in special education classes, once there, most students never make it

out of special ed. Their performance lags far behind that of their peers in general education. Most never graduate from high school, but rather drop out or age out at 21. Parents and advocates complain of delays and backlogs in the evaluation and placement process and claim that many students don't get the services they need as specified in their individualized education program, commonly known as their IEP. In short, the City's special education system has an appalling record of failing the very students it is designed to help. Under Mayor Bloomberg and Chancellor Klein, the special education system has been reorganized twice, first in 2003 and then again in 2007, as part of major restructuring of the whole school system. In the first the Chancellor condensed the 37 districts and borough committees on special education, commonly known as CSE, into ten regional CSEs. He replaced the District Administrators of Special Education with 50, 5-0, new Regional Administrators of Special Education. At the school level, he eliminated Special Education Supervisors, giving most of their responsibilities to Principals, and reassigned

Education Evaluators to classrooms, giving their evaluation and case management responsibilities to School Psychologists, essentially relying on them to do the bulk of the work. In addition the Department of Education filed to hire 200 new instructional support specialists to provide training in new methods to special education teachers. In 2007 with the dismantling of the new regions, the Department of Education transferred much of the administrative authority for special education from ten regional CSEs to five borough-based integrated service centers, commonly known as ISCs. Additionally, the Office of Student Enrollment, Planning and Operation, OSEPO, was given responsibility for placement of special education students who cannot be served in their current schools. And the school support organizations, SSOs, were charged to provide school principals with curriculum and instructional support for students with disabilities. Finally, the 2007 reorganization shifted even more responsibility to school psychologists, including evaluation and placement of children in Pre-K special ed, who would be

turning five years old and entering the school system, a task formerly performed by the Committee on Special Education. While well intentioned, these reorganizations of special education have also had some unintended consequences.

Consolidation of 37 district CSEs into ten regional CSE offices meant that paper student records, including IEPs had to be transferred from district offices to regional offices.

Unfortunately, many of these paper records were lost or misplaced for long periods of time during the transition process, contributing to the delays in the evaluation, placement and service delivery, a situation that was covered extensively in the press at that time. The elimination of Special Education Supervisors and education evaluators at the school level and larger workload for school psychologists also created some problems. In March of 2004, after the first reorganization, the Public Advocate surveyed nearly 300 school psychologists and administrators. Most indicated that some of DOE's reforms had a negative impact and added to the evaluation and placement backlog. Worse, nearly 40% of the school psychologists,

principals and administrators surveyed reported that they had been given a direct order to keep the number of referrals and evaluations down. More recently, in April of 2008, school psychologists came out in force to a Panel for Education Policy meeting, you know the PEP, to complain about their increased responsibilities and paperwork, that cuts short the time they have for evaluation and counseling students and leaves them feeling like they're mere paper pushers in the process. And in fact this is also the subject of a report entitled: Overworked, Underutilized: How the Department of Education Reorganizations of Special Education Turned School Psychologists from Mental Health Professionals into Paper Pushers. That was released in November of 2008 by the Public Advocate, Betsy Gotbaum. To their credit, DOE subsequently commissioned an evaluation of the 2003 special education reorganization, the so-called Hehir Report, which confirmed many of the earlier criticism and exposed problems with the data management system, the child assistance program commonly known as CAP, which is called an overly complex, antiquated and not user-friendly

1 system. In addition, after the 2007  
2 reorganization, the Department of Education asked  
3 the Council of Great City Schools to do a review  
4 of District 75 citywide programs for students with  
5 the most significant disabilities and recommend  
6 improvements. I'm getting tired.

7 [Laughter]

8 CHAIRPERSON JACKSON: There are  
9 also advocates, teachers, parents and others in  
10 the City with tremendous expertise, who have  
11 recommendations that can improve the system, and  
12 we hope to hear from them today. In the days  
13 leading up to this hearing, the Committee has  
14 learned of some new efforts by the Department of  
15 Education to improve special education. According  
16 to press reports, the Department of Education  
17 recently signed a \$55 million contract with a  
18 Virginia company to replace its antiquated special  
19 ed data management system. In addition, we've  
20 heard that the DOE is about to embark on a total  
21 review of special education services led by Garth  
22 Harries, currently head of DOE's Office of  
23 Portfolio Development, as part of a larger  
24 internal reorganization at DOE headquarters. But  
25

I have to remark that the only way we've learned of this so-called reorganization was from an online newspaper, Gotham Schools. Because there was no public announcement that I know of, and although the DOE holds inter-government meetings to brief elected officials and their staff, this subject has not been discussed yet, to my knowledge. I also have to comment about the lack of basic information and data on the DOE's website. For instance, we wanted to know the breakdown of the special ed population by race and ethnicity, but that data was nowhere to be found. Worse, there's often conflicting data on the DOE's website. They had several different figures for special education enrollment, none of which agreed-- again, none of which agreed with the numbers in the Mayor's Management Report. I have to say that it seems as though I'm saying the same thing over and over again at every hearing. And so, I am really getting tired of the lack of information made available to the public, and of DOE's failure to inform the public and elected officials until after changes are made. And if I'm wrong, I stand to be corrected and I'm waiting

1 to hear. This is precisely why we need to make  
2 some serious changes to Mayoral control of the  
3 school system. At today's hearing, the Committee  
4 seeks to gather information concerning the current  
5 state of special education programs in City  
6 schools and to review plans for changes to the  
7 special education system. The Committee will also  
8 hear from experts, parents, advocates, unions and  
9 others regarding their ideas about special  
10 education, and we'll explore recommendations for  
11 improvement in this area. As earlier mentioned by  
12 our Sergeant-At-Arms, anyone who wishes to testify  
13 today must fill out a witness slip, which is  
14 located at the desk in the back. And you will be  
15 allowed three minutes per person, per testimony.  
16 So I ask you, please don't read your testimony.  
17 Submit your testimony and then summarize the  
18 points that you want to make or about any other  
19 comments that have been made at this hearing.  
20 We've been joined also by our colleague Jessica  
21 Lappin of Manhattan. And with that I'd like to  
22 turn to the Department of Education and I'm going  
23 to ask all of those present at the witness table  
24 to please identify themselves and their positions  
25

with the Department of Education. Thank you.

MARCIA LYLES: Good afternoon. I am Dr. Marcia Lyles, Deputy Chancellor for Teaching and Learning.

BONNIE BROWN: Good afternoon, I am Bonnie Brown, Superintendent of District 75.

LINDA WERNIKOFF: Good afternoon. I am Linda Wernikoff, the Executive Director of the Office of Special Ed Initiatives.

CHAIRPERSON JACKSON: Of special what?

LINDA WERNIKOFF: Initiatives, Office of Special Ed Initiatives.

CHAIRPERSON JACKSON: Okay. And that includes special education?

LINDA WERNIKOFF: Yes.

CHAIRPERSON JACKSON: Okay. I just need to know, that's all. Thank you. Okay, Dr. Lyles, the ball is in your court.

MARCIA LYLES: Okay. Good afternoon, Chair Jackson. And we've introduced ourselves. We're pleased to be here today with you to discuss our progress in meeting the needs of our students with disabilities. As an educator

in the New York City Public School System for over 30 years, special education has been an issue that I hold dear to my heart, and I can safely say the same for both Linda and Bonnie. Linda has been involved in providing special education services to students with disabilities for over 35 years with the department, and has been a vocal advocate for the inclusion of students with disabilities in mainstream school culture, with the ultimate goal of improved academic outcomes for all of our students. She has been at the forefront of our special education reforms and has made significant progress. Bonnie too, is an exceptional leader in the area of special education. Her entire 31-year career at the department has been devoted to students with a variety of challenges. She started as a classroom teacher working with students with emotional challenges, and has served as an assistant principal and principal. Her hard work and dedication did not go unnoticed, as Chancellor Klein appointed her superintendent of District 75 three years ago. Under her leadership, District 75 has become a leader in the fields of Autism and positive behavior supports

for the children of this City, as the District partners with colleagues in universities all over the country, to develop state of the art interventions. Children with special needs in this City have two outstanding leaders in these women, who every day do incredible work focusing on what's best for our students with disabilities. We have made great strides since the last time the Department appeared before you on the topic of special education. The Department of Education continues to strive to improve educational outcomes for students with disabilities, and we have moved aggressively to make improvements in special education services. As many of you know, we provide a wide range of special education services to our students with disabilities, and we emphasize now more than ever that schools are responsible for the educational needs of all of their students, those students with special needs as well as general education students. We continue to integrate more students with disabilities in the least restrictive environment, which means they are spending the majority of the school day alongside their typically developing

peers. More than half of all school-age students with disabilities, 55%, are now educated in general education classes, with special education students historic high. The number of students with disabilities in Collaborative Team Teaching classes, a successful inclusion model, has more than doubled since the Mayor and the Chancellor announced reforms to special education in the spring of 2003, and standardized test scores for students with disabilities have improved annually. Our collective efforts are focused on five key principles: first, improving student outcomes; increasing school autonomy over their resources and the types of services principals deem necessary; increasing school level accountability for special education; improving equity and access to special education services; and assisting schools in building capacity to serve special education students. We have more than 160,000 special education students in our system, with a variety of needs and classification, not including pre-kindergarten or charter schools. About 12% of those students with the most severe disabilities are served by District 75. The attached chart

spells out the process from when a family or principal makes a referral, through evaluation to placement to the provision of services. I'd like to go over some of our improvements, first, along the lines of instructional outcomes. The critical piece of our special education reforms has been increasing school autonomy and accountability for student outcomes. Between 2003 and 2008, we've seen the largest gains since state testing began in 1999. In ELA we've seen a decrease of 33.6% of our students with disabilities achieving a level 1, as compared to 8.9% in general education. At the same time, there's been a 14.3% increase in students with disabilities achieving levels 3 and 4. The increase among general education students is 18.4%. In math, we've seen a 39.3% decrease in level 1 among our special education students, compared to 16.5% in general ed. While there has been a 31.7% increase in levels 3 and 4. Our general education students increased 34.1%. These results show that the Children First reforms are beginning to work for our most sensitive and vulnerable student population. New York City public school students with disabilities in grades

3 through 8 also out perform their peers in the other big four cities in the 2008 state math and ELA assessments. This is no small feat and we should all be proud of our students' progress. Other indicators of the progress our students with disabilities are in the increase of the graduation rate and the decrease in the dropout rate, as well as the expansion of inclusion services for special education students. As we said, Collaborative Team Teaching is demonstrating noticeable gains as evidenced by students' performance on standardized tests in grades 3 through 8. Our IEP teams are increasing their productivity. 90% of evaluations are in compliance with required timeframes, and the number of evaluations completed increased by 17% from 2002 to 2008. The number of students receiving related services has also steadily increased in spite of a national shortage of staff in the areas of speech, occupational therapy and physical therapy. From June 2007 to June 2008, there was a 6% increase to 93% of recommended students receiving counseling; a 7% increase to students recommended for speech; a 9% increase to 77% of students recommended for occupational

therapy; and a 12% increase to 84% of students recommended for physical therapy. While there is always room to improve, these kinds of gains demonstrate our commitment to ensuring students with disabilities receive the necessary support to help them achieve. The Office Of Special Education Initiatives, under Linda's leadership, has developed a Standard Operating Procedures Manual that specifically spells out the procedures in the referral, evaluation and placement process of school-aged students with disabilities. Our goal is to be as transparent and clear about the process as possible, so that our educators understand their role and so that parents are better served. This manual is rolling out this year. We've also developed a Practitioner's Guide, another manual that is focused on conduction instructionally relevant assessment with a focus on English Language learners. We also changed our policy so that principals identify a designee to serve as the district representative at Individualized Education Program meetings. The purpose of this change is to provide principals with greater input and

oversight of the instructional decisions made at IEP meetings. Professional development and training is critical to expand the capacity of our schools to appropriately serve our students with disabilities. To ensure we are providing quality services, we have conducted unprecedented levels of in-service training for our teachers and principals, as well as targeted assistance by our Special Education Improvement Teams to over 250 schools. The focus of the school improvement teams is ongoing consultation to schools in order for them to build capacity to improve outcomes for students with disabilities. Parents of children with disabilities have unique concerns and questions, and therefore required more specialized information than what is distributed to parents of general education students. We recognize their distinctive needs, and thus we created a training program for parent coordinators, as well as other parent support personnel on special education rules, issues and best practices. District 75 has a team of parents that work with the District's instructional specialists to design and implement training sessions for other parents in each

borough, and support parents with their annual, EPIC, Every Parent Influences Children conference. The Office of Special Education Initiatives, under Linda's direction, also established a call center to assist field-based personnel and successfully address issues raised by parents and parents transferred from 311. From July 1st, 2007 through November 30th, 2008, the call center handled more than 15,000 calls, 1,100 of which were from parents, and the other 14,000 or so from staff. 98.9% of the calls were resolved, and the average resolution time was approximately 15 hours. Last year Linda's office also developed a special education service delivery report for each school, which is publicly posted on school websites. This report, which is updated twice yearly, provides valuable information on the school's provision of special education services. With our goal of making information more easily accessible and understandable for parents, we also drafted a Parent Guide for Special Education, which is currently under review by Bonnie's team in District 75, advocates and parent organizations and our Integrated Service Centers. District 75,

serving 23,000 of the most fragile students in the Department, provides a range of services which now carry over to the general education community, supports students at risk of being referred to a more restrictive environment. The District work with its general education colleagues to support 1,800 students in full inclusion, and many in CTT classes, with the goal of moving these students back to their community schools once they have stabilized and learned to self-manage their behaviors. Partnerships have been formed with Yale University, University of North Carolina at Chapel Hill, Rutgers, Hunter College, and student advocacy groups in order to offer state of the art professional development to staff and parents. District 75 has been hosting colleagues from Japan, Belgium, Norway and as far away as Tasmania, who have seen our website and are seeking support in learning more about the education of children on the Autistic spectrum, or how to deal with those with challenging behaviors. At the present time, 13% of children leave District 75 annually to go to less restrictive environments. We have several new initiatives.

Improving our systems and points of access is important and part and parcel of the Department's overall reforms-- and part of our overall reforms. With our special education improvement efforts, and also as indicated in the Hehir Report, we recognize that there was a clear need for a special education data system. The objectives of the special education information system are to improve management of special education referral, evaluation, placement process; provide real time information to schools; reduce paper-based records; improve data integrity and align with the DOE's informational technology architecture. We are very excited about SEIS and its capacity to help further our progress in special education. SEIS's features include a secure online IEP; robust reporting tools to facilitate case management, an electronic document management system, related service encounter attendance and comprehensive training including an online self-paced modules. We just presented SEIS to the Panel for Educational Policy this week, and we look forward to its full implementation to help our improvement efforts. We acknowledge that we

need to do more, and so a new component of our ongoing efforts in special education is the creation of a new role of a Senior Coordinator for Special Education. The Senior Coordinator's mandate will be to coordinate the special educational leadership throughout the Department in developing and implementing integrated recommendations for the improvement of special education services. This new role is intended to support cross-functional problem solving and to help facilitate communication and connections among all the different parts of the Department responsible for serving students with challenges, including instructional programming, educational service provision, evaluation and referral, placement, busing and budgeting. All existing special educational leadership will maintain their role and seniority within the Department, and we are confident that this renewed focus and emphasis on coordination among all of our special education needs leaders will only stand to benefit families of children with special needs. Our students with disabilities are our most vulnerable student population, but they deserve every opportunity to

1  
2 succeed along with their typically developing  
3 peers, in fact it is their right. It is our  
4 responsibility as the adults to ensure that their  
5 needs are identified as early as possible and that  
6 they receive appropriate and necessary supports in  
7 order to achieve. It is also incumbent upon us to  
8 ensure that parents have the information that they  
9 need so that they are able to actively participate  
10 in and be stewards of their children's education.  
11 More students with challenges are meeting state  
12 standards and more are graduating. While we still  
13 have more work to do, our progress to date shows  
14 that we are moving in the right direction. We are  
15 encouraged by the tremendous gains made, but be  
16 assured we are not satisfied. We know there is  
17 still much to be done. Thank you for your time,  
18 and we are happy to answer your questions.

19 CHAIRPERSON JACKSON: Dr. Lyles,  
20 thank you for your testimony on behalf of the  
21 Department of Education. And clearly we're going  
22 to be evaluating what you've said, and we have a  
23 lot of questions. But first I'm going to  
24 introduce additional colleagues that have joined  
25 us, and then I'm going to turn straight to our

1  
2 colleagues for questions, and I will follow up  
3 after that. We've been joined by Helen Diane  
4 Foster of the Bronx, Melinda Katz of Queens, Dan  
5 Garodnick of Manhattan, Gale Brewer of Manhattan.  
6 And our colleague way over to the right, Simcha  
7 Felder of Brooklyn. And let me turn to our  
8 colleague, Melinda Katz of Queens.

9 COUNCIL MEMBER KATZ: I thank you,  
10 Deputy Chancellor Lyles; I walked in late so I  
11 apologize, for your testimony. And I understand  
12 that special education is trying to make great  
13 strides. I will tell you that as good as I think  
14 you might be trying to make it, there is probably  
15 no bigger issue in my district office that I get  
16 calls on, for education. And it is an amazing  
17 process for parents who just feel like they're  
18 hitting brick walls so many times. And, you know,  
19 we do our best to help them and I am fortunate  
20 enough to have access to a lot of professionals  
21 that will help my parents advocate with the  
22 Department of Education. But what happens, at  
23 least in my district, several times, is that you  
24 know in kindergarten or, you know, the kids are  
25 evaluated as being special ed, and then all of a

1 sudden in first or second grade the evaluation  
2 changes, and I end up having to get specialists in  
3 to advocate with the Department of Education,  
4 number one. Number two, the appeals process is  
5 probably, whatever that is, is one of the most  
6 frustrating things for any parent to figure out.  
7 So here they have their child, they're losing time  
8 in school, they're trying to get them into the  
9 program again, they're moving forward, they don't  
10 know the process, they don't have advocates and  
11 they feel like they don't know who to call or what  
12 to do. I guess the third issue I always get is  
13 busing, and I've got to be honest with you, I'm  
14 not sure how that works with the school, but I  
15 know that I've had special ed kids that have been  
16 on the buses for two hours, and they're unable to  
17 articulate at times the problem. So all the  
18 parents know is I don't know what happens on the  
19 bus, it's two hours and my kid's not home. So I  
20 guess I'd like to just find out what changes we've  
21 made over the last year as far as appeals process?  
22 What should I tell my parents to do, and the  
23 busing issue?

24  
25 [Pause]

COUNCIL MEMBER KATZ: My colleague points out, that's a lot. But, you know, do it in two minutes.

LINDA WERNIKOFF: Well I'm going to try to do it in two minutes. I think first of all I think the issues about appeals, one of the things I guess you're talking about is there are students who the school feels can be decertified from special education because they are progressing well and no longer need services. As you know--

COUNCIL MEMBER KATZ: [Interposing] I think some of the parents would argue with that assessment. And to be honest about it-- I don't mean to interrupt you, but I don't think that's an automatic assumption. I think the problem is and the reason they need advocates, is because once I get an advocate, I've won, several times, that the child still needed special ed. And that's the problem, is what would happen to those kids if I didn't have that advocate.

LINDA WERNIKOFF: Well first thing is no child can be decertified from special education without the parent's consent. So if the

parent-- if the child has an IEP, which is an individualized education program, and the school does an evaluation and believes the child no longer needs either all of the services or some of the services, there's something called pendency, that if the parent disagrees that those services continue until that conflict is resolved. And there are tremendous due process rights and parents do get a copy of the New York State parental due process rights, which I will say are not written by us and are very filled with legalese. That's why we are attempting to write a much more parent-friendly parent guide that is now with our parent advocates and our committees to review. But in the interim, if the parent has a conflict they can use the impartial hearing process, which is a fair hearing where there is a Hearing Officer, who is not an employee of the DOE, who hears both sides and then renders a decision. But that process can be very overwhelming for a parent and this really sets up an adversarial relationship, which we don't think goes a long way of collaborating with parents. So what we do now, and actually it's done across the

1 country, is we have required conflict resolution  
2 meetings. So a parent applies for an impartial  
3 hearing and says, I disagree with the school. The  
4 parent will get a letter saying that we're  
5 inviting you to a meeting to really see if we can  
6 work together and resolve this conflict. We have  
7 hundreds of those meetings, and they started last  
8 year, and I'm happy to say that a lot of conflicts  
9 actually able to be resolved at the local level  
10 between the parent and the school without having  
11 to go any further and use other impartial hearing  
12 process. There's also a mediation process. There  
13 are state run mediation centers that parents can  
14 use in which both, you have a mediator, a trained  
15 mediator, who sits with the parent and the school  
16 district to resolve those complaints. But I think  
17 the most important thing is that services cannot  
18 be taken away without the parent consenting. If  
19 the parent says no, then they have pendency. And  
20 I think the second thing is--

21 COUNCIL MEMBER KATZ: [Interposing]

22 Wait a second, they have pendency-- so according  
23 to you, none of these conflict resolutions are  
24 with parents whose children are getting the  
25

1  
2 services taken away, right? Because there would  
3 never be a pendency and there would never be a  
4 hearing, because they don't come out of the  
5 services without their permission.

6 LINDA WERNIKOFF: What you would do  
7 is that they've made a recommendation and the  
8 parent says, I don't agree. Once the parent says  
9 I don't agree, everything stays put until that's  
10 resolved, and then there's required conflict--

11 COUNCIL MEMBER KATZ: [Interposing]  
12 But that's a contradiction. Until what's  
13 resolved? Because if you're telling me that none  
14 of these kids come out of a service until--  
15 without the parent's permission, then that should  
16 be the end of the discussion. But what you're  
17 saying is that then there's a hearing.

18 LINDA WERNIKOFF: Let me just  
19 explain.

20 COUNCIL MEMBER KATZ: Am I missing  
21 it?

22 LINDA WERNIKOFF: Yeah. But maybe  
23 me, because I'm so immersed in it sometimes I may  
24 not be--

25 COUNCIL MEMBER KATZ: [Interposing]

1  
2 It seems to me that if parents have veto power  
3 that their kids don't want to come out of the  
4 program, then there should be no hearing on it.

5 LINDA WERNIKOFF: Let me explain.  
6 Let me try again. There is a meeting, and the  
7 parent is part of this meeting that-- to go over  
8 their current services. The school district  
9 believes that I no longer need speech therapy and  
10 the parent says I totally disagree, I think my  
11 child does. The school says, we believe your  
12 child doesn't; Linda is progressing very well,  
13 we're creating this new IEP without speech. The  
14 parent then gets a letter and it's called a Final  
15 Notice of Recommendation, where the parent has  
16 said, this team at the school met, this is what  
17 they've recommended, this is the change that they  
18 are going to put into effect unless you say no.  
19 So the parent then says no. Then that conflict  
20 resolution stay-put begins. If the school doesn't  
21 hear from the parent, then they will think that  
22 the parent is okay with it. Once the parent says  
23 no, it kicks in the resolution meeting and the  
24 pendency where nothing can change. And there are  
25 times that we're going to disagree about the level

1  
2 of service, and those are the kind of  
3 circumstances that you're raising, but it's not  
4 that we can unilaterally-- once the parent says  
5 no, the school system cannot just unilaterally  
6 remove the services. If a parent says no, then it  
7 gets to the conflict resolution issue. But I  
8 think there's a second-- does that help? Am I  
9 explaining it better?

10 COUNCIL MEMBER KATZ: I don't want  
11 to re-- you know, bring the horse up from the  
12 grave in order to bury it again. I'm just saying  
13 we seem to be beating a dead horse. So my point  
14 is I think that that's really the issue. I don't  
15 know what the conflict resolution is if a parent  
16 says no and you're telling me the services are  
17 never taken away. So am I...?

18 MARCIA LYLES: Let me just-- I  
19 think to address your question, your subsequent  
20 question was whether or not a parent has veto  
21 power. And the issue is no, the parent does not  
22 have absolute veto power. The school makes a  
23 recommendation, the parent disagrees. The school  
24 cannot arbitrarily overrule the parent; that's  
25 when it has to go to resolution. If the school

1  
2 says, but in our best professional opinion we  
3 think the child doesn't need the service, that's  
4 when the resolution-- so it's not an absolute veto  
5 power. So as Linda says, the first part is to try  
6 to resolve it, and then if they cannot resolve it,  
7 then the parent has the right to go to the next  
8 level with a hearing.

9 COUNCIL MEMBER KATZ: So I'll start  
10 this the way I started ten minutes ago. I have  
11 parents who get letters that their children are  
12 being taken out of special ed. They feel very  
13 frustrated, they feel angry, they don't know where  
14 to go and they don't know how to move forward.  
15 Some of them are very lucky that they have  
16 advocates and can advocate for it. I guess, I  
17 hear what you're saying. And I don't know what  
18 the resolution is, Mr. Chair. I just don't know  
19 how to move forward on this or make suggestions  
20 how to make it better. But what's clear to me,  
21 with all due respect to what you're saying, it  
22 sounds to me like parents-- you never get rid of  
23 special ed if parents disagree unless the conflict  
24 resolution says they're wrong. That sounds to me  
25 like what the answer is. And so, I'm not sure

1  
2 that that's working. And I guess my issue is I  
3 believe that the special education department,  
4 which I believe does try to do a very good job, we  
5 need to have outreach to parents to figure out how  
6 to appeal, when their children are being taken out  
7 or when they feel frustrated. Because it's not my  
8 profession, and we're the ones that end up  
9 advocating.

10 CHAIRPERSON JACKSON: I hear you  
11 loud and clear, and I don't know-- I stepped out  
12 of the room for a second, but it's my  
13 understanding that any time a parent is given a  
14 decision about their child with special needs, an  
15 IEP, that that decision has to be in writing and  
16 also in writing what that parent's appeal right  
17 are. That has to be done at every step of the  
18 process, and every step of the process has to be  
19 documented as part of the file. Isn't that  
20 correct, Dr. Lyles? So.

21 COUNCIL MEMBER KATZ: Yeah, Mr.  
22 Chair, when you were out of the room one of the  
23 panelists had indicated to me that no child is  
24 removed from special ed if parents don't want them  
25 to be.

CHAIRPERSON JACKSON: I heard that.

COUNCIL MEMBER KATZ: And so my question was, if that means that you have to go to conflict resolution and someone else decides it, that's not really the case, and that was my problem. But--

CHAIRPERSON JACKSON: [Interposing]  
Is that a definitive answer, that no child is removed from special education unless their parent agrees or-- and what if, for example the Department of Education determines that the child that was in-- had an IEP and has been let's say in a program for two or three years and now the child does not have the need anymore but the parent feels there is. Then it goes to an appeal process and the final determination in the appeal process is made by whom? Let's assume that the final decision is that the child, administrative point of view, from an administrative point of view, that the child does not need the special services any longer. What's that final administrative appeal process? What is it?

LINDA WERNIKOFF: Okay. One is you go to an impartial hearing, which is a fair

1  
2 hearing that is administered by a non-DOE person  
3 who renders a decision. If the parent, if let's  
4 say the Hearing Officer rules that we agree that  
5 the child no longer needs special ed services--

6 CHAIRPERSON JACKSON: [Interposing]  
7 Right, right.

8 LINDA WERNIKOFF: The parent can  
9 appeal to the State Review Officer.

10 CHAIRPERSON JACKSON: State Review  
11 Officer.

12 LINDA WERNIKOFF: Review Officer.

13 CHAIRPERSON JACKSON: Is that the  
14 State Education Department?

15 LINDA WERNIKOFF: Yes, it is.

16 CHAIRPERSON JACKSON: Okay.

17 LINDA WERNIKOFF: And then it goes  
18 even further.

19 LINDA WERNIKOFF: If the State  
20 Review Officer disagrees and let's say the State  
21 Review Officer says I side with the Hearing  
22 Decision, the parent has the right to go to  
23 federal court.

24 CHAIRPERSON JACKSON: Oh, okay.

25 LINDA WERNIKOFF: Once you have

used all your administrative levels--

CHAIRPERSON JACKSON: [Interposing]  
Right.

LINDA WERNIKOFF: You then have the  
right to go to federal court.

CHAIRPERSON JACKSON: Federal  
court. That's correct. Okay. And every step of  
the process, a parent will receive a decision in  
writing and what their appeal rights are. Is that  
correct?

LINDA WERNIKOFF: Absolutely.

CHAIRPERSON JACKSON: And whose  
responsibility is to make sure that that parent  
has that information? Is that DOE's  
responsibility or especially when they go outside  
of the New York City system and they go appeal to  
the State Education Department, who's authority it  
is to make sure that their appeals are in writing?

LINDA WERNIKOFF: If it's an  
impartial hearing, the Department of Education has  
the Office of Impartial Hearing, and they are  
required to send the hearing decision in writing  
to the parent.

CHAIRPERSON JACKSON: I'm talking

about when you go to State Ed.

LINDA WERNIKOFF: It's the State Education Department that makes sure that that decision goes to the parent.

CHAIRPERSON JACKSON: Okay. We're going to turn to Dan Garodnick-- okay, then let me go to John Liu of Queens. Our colleague John Liu of Queens.

COUNCIL MEMBER LIU: Thank you Mr. Chairman for holding this hearing. Last time we had a hearing, an oversight hearing, on special education it was rather clear that there was room for improvement, shall we say, with the way Department of Education is run in New York City. I listened to the testimony and read through it again, and maybe I missed it. So I just want to kind of step a little bit away from the detail and just ask the general question of what is the Department of Education's main objective with regard to special education? Just, you know, in a very basic nutshell.

MARCIA LYLES: Very basic, we want to improve equity and access for all of our students to ensure improved student outcomes.

COUNCIL MEMBER LIU: Right. That's a great thing, and in fact that's part of your testimony.

MARCIA LYLES: That's right.

COUNCIL MEMBER LIU: What is the student outcome? Is it graduation? Is it graduation from special education? Is it moving them out of special education? What would those outcomes be?

MARCIA LYLES: Well, it would have to be individualized depending upon the particular student and his level of need. But the overall, the idea of improved outcomes, we generally take a look at those students. We want to increase the number of students who graduate, who earn high school diplomas. We want to improve the performance of those students who take standardized assessments, and so those are the measures. But we also want to improve the ability of our students to succeed beyond our public education, when they leave school that they will be able to get jobs and they will be employable. And so those are our objectives.

COUNCIL MEMBER LIU: Okay. So once

1  
2 a student is deemed to need special education,  
3 then that student stays in special education all  
4 the way through either graduation or to the point  
5 where they are not going to be in school anymore?

6 MARCIA LYLES: No, that's not  
7 necessary. I mean again, one of the old  
8 expressions I remember and I sure some of us heard  
9 about special education being a service and not a  
10 place, we do not look at them to necessarily stay  
11 there for ever. It depends upon their level of  
12 need. That's the idea of developing an  
13 individualized education program for each student,  
14 and the goal is, as we talked about, we have  
15 indeed made some progress in moving students to a  
16 less restrictive environment. The goal is to  
17 prepare students to work independently, but some  
18 students will indeed need special education  
19 support services through graduation.

20 COUNCIL MEMBER LIU: Okay. So in  
21 other words there is no goal of putting the  
22 students back in the-- what did you call it, the  
23 standard classroom?

24 MARCIA LYLES: Well, our goal is to  
25 continue to move students to the least restrictive

environment, and in some cases that would be the general ed-- returning to the general education environment.

COUNCIL MEMBER LIU: Okay.

MARCIA LYLES: In some cases it may be more of an inclusive or collaborative environment. In some case it may be a percentage of their day. Remember it's the idea around the special education services is to provide that individualized what they need. But overall, our goal is to provide the necessary support for a finite amount of time so that they can move to a less restrictive environment.

COUNCIL MEMBER LIU: Okay. And then just a final couple of questions, Mr. Chairman. So you mentioned some of those student outcomes are actually graduating from our public school system. Any idea what those rates are?

LINDA WERNIKOFF: Yes. The four-year graduation rate is 19.8%, and the five--

COUNCIL MEMBER LIU: [Interposing]  
You mean the graduation rate over the last four years or the four-year high school?

LINDA WERNIKOFF: The four-year

high school graduation rate is, for students with IEPs, students with special needs, is 19.8% after four years, and after five years it's 24%. And that is actually an increase over what it was, and certainly not where we want it to be; we want it to go up every year.

COUNCIL MEMBER LIU: And what did it used to be?

LINDA WERNIKOFF: It rose-- there's different point sin time, but I would say between if you looked at between-- it rose 2.7 points between 2005 and 2007. So it's kind of creeping up there. And the only way to do that is, I think as Dr. Lyles said, is to provide real access to a rigorous general ed curriculum, that's why we're moving so aggressively to have students be in more inclusive and collaborative settings, so that they are getting the true general ed curriculum and not some watered down version of it while they're still getting special ed supports to pace instruction to the way they need it and to give them those modifications.

CHAIRPERSON JACKSON: Let me jump on that, John. What were the-- you gave the

figures of 19 point something versus I think 20--

LINDA WERNIKOFF: [Interposing]  
19.8.

CHAIRPERSON JACKSON: 22 or  
something like that.

LINDA WERNIKOFF: 24% after five  
years.

CHAIRPERSON JACKSON: Compare that  
to the state figures, the same figures that you  
gave timeframes, compare that to the state so we  
can see in the context of how New York City  
students are doing in comparative to the state.

LINDA WERNIKOFF: Yeah. The state  
sets an indicator where they want everybody to be  
at 39%, although no-- I don't think there's any  
school district in New York State for their  
students with disabilities that is near 39%.

CHAIRPERSON JACKSON: What is the  
average though? In essence, if we are at 19%, we  
want to make a comparison of how we're doing  
compared to other, all other students with IEPs  
with the four-year graduation rate, and IEPs with  
the five-year graduation rate. What are the  
statistics as far as statewide graduation rates?

LINDA WERNIKOFF: I would say that the other big four cities in New York State are comparable to New York City at this point.

CHAIRPERSON JACKSON: Do you know what the statewide figures, not necessarily the big four or big five, I'm talking about just the statewide. Because one of the things that I as a chair, I want to know how we stand with respects to the big five, and you know, everybody knows big five is New York, Buffalo, Rochester, Syracuse and Yonkers, but besides the big five, how do we look compared to the entire state, everyone else? Everyone else with the same graduation rate after four-years, with an IEP, and five years. Do you have those states?

LINDA WERNIKOFF: I don't know the state average. I just know the big five. And as I said, the state is setting a goal for all school districts to get to 39%, so I would assume that there's really nobody near 39%, so that's their kind of target goal of the state performance plan.

CHAIRPERSON JACKSON: Okay. All right. I'm sorry, John. Go ahead.

COUNCIL MEMBER LIU: No, that's

1  
2 fine. Thank you very much, Mr. Chairman. Thank  
3 you.

4 CHAIRPERSON JACKSON: Okay. We've  
5 been joined by our colleague, Lou Fidler of  
6 Brooklyn; he's way over here to my right. Anyone  
7 else? And coming in, Vincent Ignizio of Staten  
8 Island. And with that, we're going to turn to  
9 Jimmy Vacca, of the Bronx.

10 COUNCIL MEMBER VACCA: Thank you,  
11 Mr. Chairman. I first want to say that I think  
12 something we must consider is the fact that we  
13 seem to be reorganizing special education  
14 constantly, and I don't now if parents can keep  
15 track with the structural changes. We keep making  
16 changes in the pecking order and it seems to me  
17 that when you make such changes you have parents  
18 that don't know how to navigate the system, but  
19 now they know how to navigate it less because the  
20 structure keeps changing. Why was CSE taken out  
21 of the evaluation process for public school  
22 children? Now I ask that question because CSEs  
23 used to be based on a district, you had a District  
24 12 CSE, a District 31 CSE. Then when DOE was  
25 taken over within Mayoral control, within a year

1  
2 or two the CSEs served multi-districts, so one CSE  
3 was the CSE for District 1, 2, 3. Now CSE is only  
4 handling parochial school children and charter  
5 school children. Why were they taken out of the  
6 loop for evaluation of public school children and  
7 why was that given to OSEPO. Is it OSEPO?

8 MARCIA LYLES: Right. But OSEPO  
9 does not do the evaluations of the students--

10 COUNCIL MEMBER VACCA:  
11 [Interposing] Oh, I know. Who does the  
12 evaluations?

13 MARCIA LYLES: The public school  
14 children, the IEP-- the evaluation takes place at  
15 the school level. And part of the reason for that  
16 was around the idea of accountability and  
17 responsibility in supporting the students at the  
18 school level. And that was part of the move to  
19 put that support right there and that  
20 responsibility right there at the school level.  
21 So that's the first part.

22 LINDA WERNIKOFF: I just want to  
23 clarify two things, one of the things to your  
24 point about the Committees on Special Ed. In New  
25 York City there was always two levels of meeting.

One was that the child was evaluated at their school and then it went to the Committee on Special Ed where they had a second meeting. And we heard from many parents and professionals across the City that that seemed like a waste of time and when it went to that second review at the Committee on Special Ed, people who did not know the child who may not have seen the child for more than five minutes were making critical decisions and changes that the school had made, and these were people who actually knew the child. So the goal of moving the-- all of the evaluations for public school children to the school level was, one, to streamline the process because it seemed to duplicitous to have two meetings; and second one was to make sure that those people and professionals who knew the child best and were working with this child every day were making the decisions, not somebody miles away who really never saw the child. And one of the other things was then we needed to make sure also that we took care of children who were in non-public schools and were non-attending, so the Committee on Special Ed were looking at all those students who

1  
2 were not in public schools. So actually by doing  
3 that, it actually gave everybody a much more  
4 manageable caseload. At the same time, it allowed  
5 the parent to be more involved in those meetings,  
6 because they go right to their child's school  
7 rather than having to go to an office where they  
8 didn't know anybody.

9 COUNCIL MEMBER VACCA: Who assigns  
10 a special ed child to a seat in a particular  
11 program in a particular school? Is that OSEPO?

12 MARCIA LYLES: If the child is  
13 remaining, if the program is offered in the  
14 school, the school makes the assignment. If the  
15 program that this child is referred to is not  
16 within the school, then it goes to Student  
17 Enrollment.

18 COUNCIL MEMBER VACCA: I have-- I'm  
19 trying to be diplomatic. I have been told that  
20 not everyone has been satisfied with OSEPO.

21 [Laughter]

22 COUNCIL MEMBER VACCA: And we are  
23 giving them another responsibility, and I would  
24 like to caution against that. The phone calls all  
25 of us get in the beginning of September regarding

1  
2 OSEPO is like, they are overwhelmed. I have  
3 parents waiting in cafeterias for two and three  
4 days. This happened this year. And I know the  
5 people who work there are hardworking and sincere,  
6 but I'm concerned about workload and making sure  
7 that every student gets the best possible  
8 assignment, that the parent is satisfied as much  
9 as possible. And what I see is perhaps we should  
10 not be overburdening now, because these are  
11 children with special needs, going into a  
12 bureaucracy that I don't know really is working  
13 the way we would like it to work.

14 MARCIA LYLES: Well, you know, I  
15 appreciate your diplomacy. And part of, when you  
16 said about multiple reorganizations and the most  
17 recent one that took place in 2007, this is the  
18 second year. The position that I mentioned about  
19 senior coordinator, it is not a reorganization,  
20 but it is actually-- part of it is to assess what  
21 we've done and to take a look, and that's the  
22 reason that it is going to go across the entire  
23 department. So it will take a look at indeed our  
24 referral process, our placement process, etcetera,  
25 because we recognize that it is not working as

1  
2 smoothly for parents and children as it should be,  
3 and we recognize that there is a need.

4 COUNCIL MEMBER VACCA: So what will  
5 you be doing next? You are assessing placement of  
6 special-- you are reassessing your process of  
7 placement?

8 MARCIA LYLES: The senior  
9 coordinator who will be reporting to me has been  
10 charged to take a look at how we are providing  
11 related services, how the priorities are looking  
12 at our related services offerings, looking at our  
13 placement process, looking at our referral  
14 process, looking at all of the operational and  
15 structural pieces that we have to see how they can  
16 be more aligned, more effectively serve students  
17 and parents and reduce redundancies across the  
18 department.

19 COUNCIL MEMBER VACCA: But I have  
20 to say that we've had Mayoral control now since  
21 the end of 2002, and we still seem to be in a  
22 state of transition in special ed. We still seem  
23 to be in a state of organizational change. And  
24 change is sometimes good, but change can often be  
25 just a little much. When do we get to a point

1  
2 where we're saying we have a hold of the  
3 situation, we know where we're going, we are  
4 confident that this organization is the final  
5 reorganization? I think this is what a lot of  
6 parents are waiting to here.

7 MARCIA LYLES: Well, I certainly  
8 understand that. Quite frankly I think that we  
9 have to always assess and take a look at the work  
10 that we're doing. Until we have 100% of our  
11 students who are meeting their full potential, I  
12 think we're going to constantly-- and in special  
13 ed we know that that has been the most challenging  
14 piece for us. And we are just committed-- and I  
15 think that this really reflects our commitment to  
16 saying that it's not a matter of-- there may be  
17 some things that need just a little tweaking;  
18 there may be some things that need a major  
19 overhaul. But what we want to do is to say we  
20 recognize that although we think we have improved  
21 significantly our operational processes, we think  
22 that they have resulted in improved student  
23 outcomes, we think we're moving in the right  
24 direction; we want to see if we can indeed  
25 accelerate that process, if we can make sure that

our aggressive determination results in improved student outcomes and access.

COUNCIL MEMBER VACCA: My last question, Mr. Chair, is that we had discussions on this committee about small schools, making sure that small schools also had representation from special education students. My question to you is I know that we've made some progress, but I have to ask, is there a cap insomuch as the percentage of students in a school that are classified as special ed, so that we do not run the risk of isolation or overwhelming a school? Is there a cap of 20%, 30%? What is it? I know that there were caps like that years ago because we looked not to overburden particular schools and we looked to make sure that there was an integration with regular ed and special ed. So I would like to know if there is a policy at this point?

LINDA WERNIKOFF: I'll address that. First I just want to say something about the small schools. The small schools actually, after the small schools have been in operation for three years, they're actually taking on a higher percentage of students with disabilities than the

1 existing schools, so they absolutely have been  
2 taking on more than their share of students with  
3 disabilities. And I think to your point you're  
4 absolutely correct, what we're looking at, and  
5 part of what the Office of Student Enrollment  
6 looks at is trying to look at equalizing the  
7 distribution of students across the system. So if  
8 14% of our student population are students with  
9 disabilities, then you would expect to see schools  
10 with 14 or so percentage of students in the  
11 building, because that's what we would call  
12 natural proportions. So that's kind of our goal.  
13 Remember, there have been certain schools-- I've  
14 been here over 35 years, so there are certain  
15 schools that were just historic good schools that  
16 had great special ed programs that everybody  
17 wanted. So at times their percentages went up.  
18 But now there's a lot more choice, but the goal is  
19 to have the percentage represent what you would  
20 see in the overall population, which is about 14%.

22 COUNCIL MEMBER VACCA: My caution  
23 to you is that sometimes when we allocate school  
24 space and when we place children, we look at space  
25 in the building. And when you look at space in a

1 building, there are schools that do exceed the  
2 14%, because if you're looking at space, you're  
3 looking at a different criteria. If you look at  
4 education outcome, socialization, then you have a  
5 different criteria. So I caution in that regard  
6 that although there may be space in a building, we  
7 don't want to have an overburdening and an  
8 isolation. So I do take the 14%, and if I do see  
9 different, you will get a phone call.  
10

11 LINDA WERNIKOFF: Thank you.

12 COUNCIL MEMBER VACCA: Okay, thank  
13 you.

14 CHAIRPERSON JACKSON: Thank you,  
15 Council Member Vacca. Deputy Chancellor, you had  
16 mentioned the position of Senior Coordinator. Is  
17 that currently within the framework of the  
18 Department of Education's Special Education  
19 Services or is this something new? And if it's  
20 new can you explain then what the new, I guess  
21 road map, is going to look like? And who is this  
22 Senior Coordinator going to be? Is it as what was  
23 indicated in the online information that we heard  
24 about or read about? Can you shed some light on  
25 that as per my opening statement?

MARCIA LYLES: Yes, Chair Jackson. That position is the Garth Harries position that you referenced to in the online blog, it is the one that I described. That position, Garth will be working with Linda and Bonnie. It will be a team, a leadership team of three to work together. He will be in Teaching and Learning, under Teaching and Learning. I've outlined some of the priorities he will have, and again, as I outlined them in the testimony that he will take a deep look not only within Bonnie and Linda's world, but just across the department, so he will look at items such as student enrollment, bussing that someone else talked about, you know, taking a look at that, taking a look at how students are referred, placed, looking at whether or not the funding is equitable, the inclusive models; every element of the organization that touches students with disabilities he will be helping us to make sure that they're providing the level of service that they should have.

CHAIRPERSON JACKSON: You had indicated in response to Council Member Vacca that the Senior Coordinator will be reporting to you on

these particular matters.

MARCIA LYLES: Yes.

CHAIRPERSON JACKSON: Is there--  
and when do you see this going into effect, and  
if, and when is the Department of Education going  
to communicate that to, I guess, the public, the  
parents, everyone involved in special education?

MARCIA LYLES: Well we have already  
started to communicate that. First of all, he was  
introduced at the Panel meeting this past Monday.  
We have-- I have also spoken with the director of--  
- the president of the CCSE? Yes, with the  
president of the CCSE, and in fact Garth is going  
to go to a future meeting, I think in February.  
And we've introduced the concept; he's not in  
town, to the Special Education Parents Advocates  
Advisory Council. We met with them the day before  
yesterday to talk about what his role is and his  
responsibility and charge are. He starts  
officially in that capacity February-- Monday, the  
first Monday, yeah, in February.

CHAIRPERSON JACKSON: And will that  
be his full responsibilities or will he be shared  
with other responsibilities?

MARCIA LYLES: That is his full responsibility. Not to say we're not going to use him, his expertise. I mean we like to think of it-- but his charge, he has no other office. He has no other, you know, reports.

CHAIRPERSON JACKSON: Right. That's what I'm asking, whether or not that's going to be 100% of his time--

MARCIA LYLES: That's-- right.

CHAIRPERSON JACKSON: --to deal with, you know, looking at special education--

MARCIA LYLES: [Interposing] That's what his charge is.

CHAIRPERSON JACKSON: --programs and all of the various aspects of that.

MARCIA LYLES: Yes, right.

CHAIRPERSON JACKSON: Let me turn to our colleague, Gale Brewer. Council Member Brewer of Manhattan.

COUNCIL MEMBER BREWER: Thank you very much. Just picking up on Melinda's question about the bussing, because I do get a lot of calls. My understanding is that first of all the bussing folks have a big job figuring out the

1 roots. And when I called to state that so and so  
2 was on the bus for longer than a special education  
3 child is supposed to be on, they do try, I will  
4 say try, either have to add busses or smaller  
5 children so the route is less. However, it is a  
6 long trip. A lot of young people go from  
7 Manhattan, in my situation, to a school in the  
8 Bronx, which is appropriate for their need. It's  
9 a very long trip. They can be on the bus for  
10 three hours per day. How will that be looked at?  
11 And why, maybe, hasn't it been addressed? Is it  
12 just a resource issue? What is the challenge here  
13 and so on?

14  
15 MARCIA LYLES: Okay. So, you know,  
16 this is certainly something that is-- we're  
17 attempting to address. As an example, Matthew  
18 Berlin, who supervises and oversees bussing--

19 COUNCIL MEMBER BREWER:

20 [Interposing] We talk to him all the time.

21 MARCIA LYLES: All the time. I'm  
22 sure. Well he came to the Special Ed Parents  
23 Advisory, and we've sort of set up a mechanism in  
24 which those parents and advocates who really have  
25 provided a great deal of recommendations, a number

1  
2 of recommendations around a host of issues that  
3 they are going to, first of all, they asked him  
4 many questions, shared some of their major  
5 concerns including the time, you know, on the bus,  
6 etcetera.

7 COUNCIL MEMBER BREWER: It's the  
8 legal time, but it's too long.

9 MARCIA LYLES: Right. And so first  
10 of all we're giving him that post. He's offered  
11 to have a subgroup of those particular parents who  
12 represent across the spectrum to meet with them to  
13 try to wrestle with how that's going to be met.  
14 However, Bonnie wants to say a few other things  
15 about the bussing, because that is indeed  
16 something that has been very problematic.

17 BONNIE BROWN: I think that you  
18 raise a very good point. We deal with it  
19 constantly in District 75 that has the most  
20 fragile children. And we understand that we're  
21 talking about some children that have an attention  
22 span of five minutes and they're on the bus for an  
23 hour. But unfortunately, there's a real challenge  
24 here, and that is that many of our children,  
25 especially those that are in wheelchairs, need

1 barrier free buildings, and many of our school  
2 buildings are over 100 years old and they're not  
3 barrier free, so children have to be bussed across  
4 the borough to a school that is barrier free. In  
5 District 75, many of our children attend school in  
6 psychiatric hospitals or faith-based organizations  
7 where there's psychiatric support and wraparound  
8 services. So, you know, we have children from  
9 Washington Heights, we have children from the  
10 Lower East Side that go to school everyday at  
11 Bellevue on a locked ward on a school bus. So  
12 that's another challenge. The other issue is that  
13 because there is a shortage, nationally, of  
14 related service providers, especially in speech  
15 and occupational therapy and physical therapy, we  
16 have centers where we have 300 or 400 students  
17 with special needs and because of economy of scale  
18 we can have many therapists there. So sometimes  
19 children are going to a self-contained building  
20 because that's where they can get their services,  
21 as opposed to, especially in Manhattan, when I had  
22 my itinerant people having to go from, you know,  
23 23rd Street up to 96th Street, it could take them  
24 two hours during the workday just to get there.  
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So because--

COUNCIL MEMBER BREWER:

[Interposing] Not on the subway.

BONNIE BROWN: That's true. But they have equipment with them sometimes--

COUNCIL MEMBER BREWER:

[Interposing] I'm just telling you. From my constituents to your ears. Go ahead.

BONNIE BROWN: So, you know, there is a need to sometimes bus children to a center where there is very specialized programs. The thing that comes up very often when I speak to parents is they tell me, and I'm sure it's what you hear also, that my child has on their IEP they're supposed to be in a minivan, they're supposed to be in an air-conditioned minivan and they're supposed to not be on the bus for more than 20 minutes. And when we run it through, you know, the system or I speak to Matt or some of his routers, that's very old data and it's not in the system. And we have a terrible problem with that in District 75, this year, because parents did not get the proper medical documentation and they thought whatever they did when their child was

1  
2 five years old is still good when their child is  
3 ten years old. And that medical documentation has  
4 to be updated. I know within our district we sent  
5 it to all our parents through our parent  
6 coordinators. But bussing is a challenge. But I  
7 have to say that for the most part when we've been  
8 in contact with Matt Berlin or now Eric Goldstein  
9 is back, other people with specific problems and  
10 really talk about what specific needs of children  
11 are, that they have been extremely receptive--

12 COUNCIL MEMBER BREWER:

13 [Interposing] I'm not going do debate it longer.  
14 I'm saying they're receptive, but the legal time  
15 is actually longer than 20 minutes, I think, for  
16 the older kids. But the issue is it's still a  
17 long time and I don't know if it's good for the  
18 kids. I don't think so. I know you're working on  
19 it. I would assume it's a resource issue, that  
20 you don't have enough busses, and then the economy  
21 of scale, which means that people aren't going to  
22 be scattered in the neighborhoods to address the  
23 needs. So I guess you're looking at it.

24 MARCIA LYLES: Right, yeah.

25 Absolutely. And you know, Bonnie has, you know,

again some of her population we cannot. But that's also one of the reasons why we are trying to ensure that more students receive their special education services in their home school.

COUNCIL MEMBER BREWER: Okay. Let me ask another question, numbers. I'm luck and privileged to have Mickey Mantle in my district, so I spend a great deal of time there. So I know the model of that school. So, I guess you said you have-- how many in District 75? Is it 23,000? Is that the number?

BONNIE BROWN: 23,000.

COUNCIL MEMBER BREWER: Okay. And then how many in schools like Mickey Mantle? How many in CTT? Can you break down? And then how many-- many of my parents send their children, of course, to private school; so how many of those do you have and how many are in New York City private schools and how many are-- I guess who still exist in other states or other places? So do you have the breakdown?

MARCIA LYLES: Okay, do you want the--? Linda has like a lot of numbers here, so let me just make sure we understand. So you want

the percentage of students in settings like Mickey Mantle?

COUNCIL MEMBER BREWER: Mickey Mantle or CTT. Is CTT still considered what? District 75 or--

MARCIA LYLES: [Interposing] No. That's why, right. No.

COUNCIL MEMBER BREWER: Okay. So once you leave Mickey Mantle and you go to Stevenson, which is what everybody does, then you are no longer-- you are still in District 75 in that situation? No? No. Okay. So how many in District 75, both-- however you would break it down.

MARCIA LYLES: So you want the District 75 breakdown.

COUNCIL MEMBER BREWER: Why don't we start with that? Because you don't-- do you have the CTT and how many?

MARCIA LYLES: We do have CTT data.

COUNCIL MEMBER BREWER: Okay, so CTT and what I call the Stevenson kids, private school.

LINDA WERNIKOFF: Okay, so let me

1  
2 just kind of break it down, the overwhelming  
3 majority of students with disabilities are in  
4 their community schools and they have different  
5 service delivery models. So right now team  
6 teaching classes we have close to-- CTT classes we  
7 have approximately 33,000 students in CTT classes,  
8 and that's about 20% of the students with  
9 disability population.

10 CHAIRPERSON JACKSON: These are  
11 citywide stats?

12 LINDA WERNIKOFF: Citywide,  
13 absolutely.

14 COUNCIL MEMBER BREWER: Okay.

15 LINDA WERNIKOFF: And then there  
16 are students who get what we call Special Ed  
17 Teacher Support Services or just related services,  
18 their only special ed services, and that's  
19 approximately 61,000 of our students with  
20 disabilities.

21 COUNCIL MEMBER BREWER: So that  
22 would be like a pull out situation?

23 CHAIRPERSON JACKSON: Yeah, give me  
24 an example. What's an example of that?

25 LINDA WERNIKOFF: So for example, I

1  
2 may, I'm sitting in my general ed class, but I do  
3 have a learning disability around reading, and I  
4 get a special ed teacher who supports me one or  
5 two periods a day, either in my classroom or I get  
6 pulled out. That's a decision that the school  
7 makes and the teacher makes.

8 CHAIRPERSON JACKSON: Okay.

9 COUNCIL MEMBER BREWER: That would  
10 put Susan Crawford in charge of that. Go ahead.

11 LINDA WERNIKOFF: Okay.

12 CHAIRPERSON JACKSON: So that's  
13 66,000 you said, which is what percentage?

14 LINDA WERNIKOFF: About 61,000, and  
15 that's about 38% of the--

16 CHAIRPERSON JACKSON: [Interposing]  
17 Citywide?

18 LINDA WERNIKOFF: Yes.

19 CHAIRPERSON JACKSON: Okay.

20 LINDA WERNIKOFF: And then we have  
21 students in special classes. So separate and  
22 apart from District 75, we have students who are  
23 in special classes both in high school and in  
24 community schools.

25 COUNCIL MEMBER BREWER: Like self-

1  
2 contained?

3 LINDA WERNIKOFF: Self-contained.

4 COUNCIL MEMBER BREWER: We're all  
5 talking different languages; I'm trying to get to  
6 the same one. Self-contained.

7 CHAIRPERSON JACKSON: And is that  
8 part of the MS 1, 2, 3?

9 LINDA WERNIKOFF: It used to be.  
10 Now it's more, 12:1:1, there are different ratios.

11 CHAIRPERSON JACKSON: Okay.

12 LINDA WERNIKOFF: But yes, it is  
13 the self-contained classes.

14 CHAIRPERSON JACKSON: Okay.

15 COUNCIL MEMBER BREWER: I go back  
16 to EC 30, so go ahead.

17 LINDA WERNIKOFF: I was HC 10 and  
18 20.

19 COUNCIL MEMBER BREWER: I was HC 30  
20 with my kids.

21 [Laughter]

22 COUNCIL MEMBER BREWER: My kids, HC  
23 30.

24 LINDA WERNIKOFF: And we have  
25 approximately 19,000-- wait-- 47,000 students.

COUNCIL MEMBER BREWER: In the self-contained?

LINDA WERNIKOFF: Contained, in non-District 75 self-contained, and that makes up approximately 29% of the special ed population. So that's all the non-District 75. So you have special classes, you have CTT and you have that special ed teacher support and related services.

COUNCIL MEMBER BREWER: Okay. Can I ask you a question? Then we'll go to the District 75. But, where in there are the private schools?

LINDA WERNIKOFF: That's just public schools.

COUNCIL MEMBER BREWER: Got it. Okay, keep going.

LINDA WERNIKOFF: We have approximately 35,000 students who are-- the majority of them are parentally placed; these are students in parochial schools, Yeshivas and other private schools that--

COUNCIL MEMBER BREWER: [Interposing] Independent schools too.

LINDA WERNIKOFF: Right, where the

parent says I don't want your class but I'd like some special ed support, and we would provide things like related services, bussing, special ed teacher support. So--

COUNCIL MEMBER BREWER:

[Interposing] So you don't pay the tuition for that school?

LINDA WERNIKOFF: Right. There are students-- I'll be a little more confusing.

COUNCIL MEMBER BREWER: Yes, certainly.

LINDA WERNIKOFF: There is a subset of students who go to what we call state approved non-public schools.

COUNCIL MEMBER BREWER: Correct. That's what I'm talking about.

LINDA WERNIKOFF: And there's about, I would say, close to 8,000 students in those schools.

COUNCIL MEMBER BREWER: And that's in addition to the 35,000?

LINDA WERNIKOFF: Yes. And those students are students that we believe have needs that eclipse what we can provide in the public

1  
2 school and we have made a recommendation to go to  
3 one of those state approved schools.

4 COUNCIL MEMBER BREWER: Okay. And  
5 so then the District 75 are the Mickey Mantles and  
6 everybody else. That's the 23,000. Go ahead.

7 BONNIE BROWN: In District 75--

8 COUNCIL MEMBER BREWER:  
9 [Interposing] I love Mickey Mantle, by the way.

10 BONNIE BROWN: In District 75 we  
11 have approximately about 11,000 children with  
12 emotional challenges, about 3,700 children with  
13 Autism, approximately 1,250 children that have  
14 multiple disabilities, about 5,000 children that  
15 have a range of diagnoses from mental retardation  
16 to learning disabilities, to speech impaired to  
17 other health impaired. We have approximately  
18 right now, which changes day to day, but 1,300  
19 children that are on home instruction, and the  
20 remainder of the student body is in hospital and  
21 hospital instruction.

22 COUNCIL MEMBER BREWER: Okay. And  
23 then my final question is how do you work with  
24 groups-- what we do is we just refer parents to  
25 Advocates for Children, which is a great

organization. How do you work with them and with those groups that are dealing with some of these parent challenges?

LINDA WERNIKOFF: Well one of the things we established is we, it's a parent advocate special ed advisory group. And we meet once approximately every eight weeks, and I'm happy to say that we have tremendous membership of organizations throughout the City, including New York Lawyers for the Public Interest--

COUNCIL MEMBER BREWER:  
[Interposing] I'm looking at them all over there to see if they agree, go ahead.

LINDA WERNIKOFF: Advocates for Children, AHRC--

COUNCIL MEMBER BREWER:  
[Interposing] We know them all.

LINDA WERNIKOFF: We know them all and they have been extraordinarily helpful in providing us feedback, criticism, assistance in doing a lot of, in helping us in working through our issues and creating documents for parents.

COUNCIL MEMBER BREWER: Does Garth listen to them? Garth doesn't always listen. He

needs to have a better listening method.

MARCIA LYLES: Garth hasn't started yet in this role, but he's looking forward to working with them.

COUNCIL MEMBER BREWER: Okay. I'm just telling you. I know him; I'll tell him right to his face. And he needs to be very responsive to these groups, because they know what they're talking about. Not every advocate does, but this is a particularly sensitive, informed and very compassionate group of people with a lot of good ideas, and I would suggest that they be listened to a great deal. In fact I would just go with their recommendations. Thank you.

CHAIRPERSON JACKSON: Thank you, Gale, Council Member Brewer. Let's turn to Council Member Vincent Ignizio of Staten Island.

COUNCIL MEMBER IGNIZIO: Thank you very much. It's nice to dovetail on what Gale said, because I have to tell you, you all know, very familiar with the advocates on Staten Island. We have an extremely active special ed community, and they don't always agree with each other, let alone agree with you all or us. But the point I

1 wanted to make was and is that from a layman, from  
2 elected officials and someone, with the grace of  
3 God, I haven't had to deal with issues such as the  
4 parents have, it's very, very confusing for them.  
5 It really is. And I ask, and I think so often  
6 when we're in a business we kind of leave the  
7 human side. I mean we look at numbers and we look  
8 at charts and whatnot. And the only message I  
9 want to take both to this committee and to you all  
10 is that it's tough enough when a parent gets a  
11 diagnosis of a child with X, Y or Z. They're  
12 pulling their hair out of their heads. My own  
13 niece suffers from a PDD issue, and you know,  
14 everybody wants the kid to just be better. And  
15 the parents hope against hope, and anything they  
16 hear that, yeah that's what I want for my child  
17 and that's what I want. And that's when they turn  
18 to government to say can you help my kid. And the  
19 experiences that a lot of my parents have is not a  
20 closed door, I don't want you to think people are  
21 being rude, it's just that, well that's the way it  
22 is, whatever it says here-- very emphatic, this is  
23 what that says, you know. I sound like I'm  
24 rambling even to myself here. But I'm trying to

1  
2 see if we can get to a point where there is a  
3 greater understanding on behalf of what you guys  
4 are doing and services that are being provided, so  
5 that organizations that go out and talk to the  
6 parents can speak with the same voice. Because I  
7 hear from my parents that they hear one set of  
8 rules from one group and another set of rules from  
9 another group. And you know, never the two shall  
10 meet. So is there a renaissance within the  
11 special ed department of the DOE that is actually  
12 going to try to make it more consistent and easier  
13 for them to understand? That's my first question,  
14 as long and arduous as it was to even put into  
15 words.

16 LINDA WERNIKOFF: First of all, I  
17 appreciate everything that you're saying and I  
18 think we do have to be sensitive. And that's why,  
19 I have to say, that we have spent an enormous  
20 amount of time going out to parent meetings and  
21 community groups; we've held both District 75 and  
22 my office have held citywide Parent Fairs to give  
23 them information and provide them a lot of help  
24 with working with their children. The other thing  
25 is I don't want to lose sight of the fact that we

1  
2 did set up a special ed call center. It started  
3 in July of last year and we continue to have it  
4 this year, where parents who call through 311 get  
5 connected to a call center where we have senior  
6 special education people who are helping walk them  
7 through issues. And I think that has been  
8 tremendously successful, because I get a lot of  
9 emails in my career, and I have to tell you the  
10 emails I get back from parents who have connected  
11 with the call center have said: thank you, thank  
12 you, thank you, they've walked me through it. So  
13 that's one thing--

14 COUNCIL MEMBER IGNIZIO:

15 [Interposing] Is that-- let me just real quick--  
16 is that handled through, you know, your child is  
17 going through early intervention to-- and is that  
18 information passed along readily to them?

19 LINDA WERNIKOFF: Actually that is  
20 one of the things, especially for what we found,  
21 yes, any parent can call; but the interesting  
22 thing is we heard from our parent and advocate  
23 advisory group that the transition from preschool  
24 to school age services was traumatic for many  
25 parents.

COUNCIL MEMBER IGNIZIO: Yeah, I hear that a lot.

LINDA WERNIKOFF: And that is why we have established citywide borough fairs. We held them this year. We had thousands of parents come, of students who-- preschoolers with disabilities, to learn about what was going to happen, you know, for them to come into kindergarten. They provide tours for them to see what it means to be in a school-aged program. We have a manual for them online that our advocates have helped us write. But I think also, to your point about the rules and regulations in special ed are very confusing, and a lot of them are steeped in federal and state legislation. That is why, it think as Dr. Lyles said in her testimony, we did write a SOPM, Standard Operating Procedures Manual for Special Ed, which is on our website. Because to your point, we want everybody to have the same information. You know, after years you have urban myths, as I call them, where people-- this helps by having everything in writing. And what we're doing now is we're making a parent guide that is much more user friendly than this

1 huge document that will be aligned with it. And  
2 right now the advocates and now parents are  
3 reviewing it. But we did go through that,  
4 painstakingly writing down as simply as we could  
5 all the rules so that there is no fighting. It's  
6 right there. It's online. This is what it is.

8 COUNCIL MEMBER IGNIZIO: And can I  
9 ask about the, you know, three scariest letters  
10 for parents of special needs kids, the IEP? And  
11 when they're going in and they're fighting for  
12 their kids. You know, there is-- I don't know if  
13 it's an urban legend or myth, but you didn't get X  
14 services or why didn't I have that, well you  
15 didn't know to ask. And I hear that from a lot of  
16 people. If you knew to ask people, I'm just  
17 through this out there, I don't know the story.  
18 If you didn't know to ask for speech therapy and  
19 you walk away or your kid didn't get speech  
20 therapy. But if you knew enough to ask, maybe you  
21 got five hours of speech therapy. And that kind  
22 of thing scares me as a parent because I put  
23 myself in that place and god forbid my daughter is  
24 in that area saying, look, I just went in there  
25 and almost-- you guys are acting as, or those that

1  
2 are making decisions, are acting as you're going  
3 to best benefit my child, you're going to give me  
4 what best benefits my child. And then what we  
5 hear from certain parents, and it may not be true,  
6 but I'm throwing it out there is, well, that's  
7 true but we want to keep costs down as well and we  
8 want to keep this down as well and we-- there's  
9 only a certain amount of speech therapists to go  
10 around; so you didn't know to ask, so we're not  
11 going to offer that information. Does that go on?  
12 Is that going on? And is that going to be fixed,  
13 that aspect-- if it does go on?

14 LINDA WERNIKOFF: The way-- this is  
15 what I would say. First of all there's an  
16 evaluation. And the reason why you have a multi-  
17 disciplinary team evaluation is it's not about I  
18 want this, I want that, it's really about looking  
19 at what are my underlying strengths and  
20 weaknesses, and what other supports do they need  
21 in school that are going to help me achieve. And  
22 you have an annual review of the IEP, because  
23 every year you want to look and say, well, we put  
24 these services together, are they working?  
25 Because you may think this is the right set of

1  
2 services, but they don't necessarily-- may not be  
3 the right ones after a year. So I think that the  
4 way it should work is you shouldn't have to be  
5 asking for services. That should come up as part  
6 of your evaluation. If you're doing a  
7 comprehensive evaluation and I started out as a  
8 speech pathologist, then you should be-- part of  
9 your evaluation should pick up that I have an  
10 extraordinary, you know, language difficulty and  
11 that I would need these services. Certainly the  
12 more parents know, we believe that knowledge is  
13 power and that is why we have-- give parents a  
14 list of the continuum services, everything from  
15 speech to travel training to all of the other  
16 services. But in the way it should work is you  
17 shouldn't have to ask for them. They should be  
18 part of your evaluation. However, it's out there,  
19 so hopefully parents can ask if they haven't  
20 gotten. As far as keeping costs down, that is, I  
21 will say, if you look at the numbers of kids in  
22 New York City that are recommended for special  
23 education and the amount of services, we far  
24 exceed not only the numbers of kids recommended  
25 but receiving than any other large urban school

1  
2 district across the country. So I don't think  
3 that we are making recommendations based on  
4 availability or saying that we can't give a  
5 service because it's about money. I just don't  
6 think that you know would bear itself out.

7 COUNCIL MEMBER IGNIZIO: I  
8 appreciate that, you even saying that. I think it  
9 needs to be asked and it needs to be answered by  
10 the Department. Okay. If you guys can provide me  
11 the documentation you have, and I'm happy to share  
12 it with the-- not that they don't have it but at  
13 least I'll have it in my office so if somebody  
14 comes in and says we don't know what this is, I  
15 can turn around and say, well here it is. I don't  
16 need 1,000 of them. If you can get like, 20 or 30  
17 of them for me, I'd be really happy to keep those  
18 in my office and mail them out to those leaders  
19 that are involved and mail them out to anybody  
20 that calls. I mean we refer people, as Gale said,  
21 to what we perceive to be the experts, and I want  
22 to have the information at my fingertips too. So  
23 thank you very much. Thank you, Mr. Chairman.

24 CHAIRPERSON JACKSON: Thank you,  
25 Council Member. Council Member Maria del Carmen

Arroyo of the Bronx.

COUNCIL MEMBER ARROYO: Thank you, Mr. Chair, and I apologize for my back and forth. I have to be at a juvenile justice committee meeting across the hall, across the street as well. So cloning may still be worked on, it doesn't help us as Council Members. Good afternoon, ladies and thank you for being here. Thank you for your testimony. I'm going to ask a couple of questions. I hope they have not been asked, but I have a sense that they haven't. I'm one of those students that had to come to this country and enter this school system at the third grade. I was eight years old, did not speak English. My brother was a year older and was left back. He should have gone into the fifth grade, or the sixth grade, and was forced to go into the fourth, one year before, simply because he didn't speak English. And obviously in those times we didn't have access to ESL or those other types of programs that can keep children on track in their grade, because in my mind not speaking English is not a learning deficiency. And if we speak with an accent, it doesn't mean that we're stupid. But

1  
2 the school system certainly has a knack for  
3 pigeonholing children because of whatever the  
4 nuances are. And I mean, data always supports  
5 that minority children of color are  
6 overrepresented in the special interest, the  
7 Latino children or children who are not proficient  
8 in English seem to be overrepresented as well. So  
9 can you tell me what the census is with regards to  
10 the number of children, Black, Latino, Asian, ESL  
11 students, the percentages in the special ed  
12 programs across the City?

13 MARCIA LYLES: Sorry. I was trying  
14 to see if we had the actual percentages; and we  
15 don't have the actual percentages. What we have  
16 been told by the-- we just got them hot off the  
17 press. I had asked for them. American-- our  
18 ethnic breakdown: American Indian, .73%; Asian  
19 5.2%; Black 33.3%; Hispanic 42.8%; and White  
20 17.9%. We do not have-- oh, we do have a gender  
21 breakdown.

22 COUNCIL MEMBER ARROYO: Well it  
23 appears that Black and Hispanic children make up  
24 well over 70% of the children in special ed.

25 MARCIA LYLES: Right. And they

1  
2 make up-- there aligned with the percentage of  
3 students in the entire system. Roughly 38% of our  
4 students are-- I'm sorry, 35% of our students are  
5 Black. Almost 40% of our students are Latino, so  
6 I mean it makes a comparable number. I think--

7 COUNCIL MEMBER ARROYO:

8 [Interposing] So the next part of that question is  
9 the English language learners, what proportion of  
10 the special ed population do they make up? And  
11 please don't lump them into the Hispanic.

12 MARCIA LYLES: No, absolutely. I  
13 don't have that breakdown now although we do have  
14 that data. I understand that.

15 LINDA WERNIKOFF: I think one of  
16 the things is, as Dr. Lyles said, part of what we  
17 do as a state--

18 COUNCIL MEMBER ARROYO:

19 [Interposing] Which one is Dr. Lyles by the way?

20 LINDA WERNIKOFF: Oh, I'm sorry,  
21 this is Dr. Lyles. The state has a state  
22 performance plan and one of the things they did  
23 find is that New York City does not have a  
24 disproportionate representation of minorities in  
25 special education. But one of the things that we

do realize is that if we don't do a really good comprehensive evaluation it's very hard to just look at the difference between this child who is a second language learner from a child who has a disability. So one of the things that we've worked on very hard this year, and we work with Amelia Lopez at Queens College and John Hoover at the Bueno Institute, who are two very leading people in the world of special ed and English language learners, was how do you do a really good bilingual evaluation so that you really see, is the issue a second language issue or is it a disability. And the way you do that is you give all the exams in English and you give all the exams in the students' other than English language. And if I show difficulty in both, then I have a disability. If I only have difficulty on the English exams, then obviously it's not a disability; it's because I haven't mastered the English language. So we actually have spent a lot of time this year working with our bilingual evaluators in our schools to do much more comprehensive evaluations. And we actually produced what we call a practitioner's guide,

1  
2 which is emphasizing how to conduct best practices  
3 when you are assessing children who are second  
4 language learners, looking at cultural  
5 differences, looking at language differences so  
6 they are not misinterpreted as being a disability,  
7 but looked at for what they, you know--

8 COUNCIL MEMBER ARROYO:

9 [Interposing] Okay. Well I'm glad to hear that.  
10 Now let me ask you, can you tell us-- has there  
11 been a change in the number of children being  
12 identified since you started applying this new  
13 method. Is there a difference in the number of  
14 children identified as special ed and just merely  
15 someone who is not proficient in the English  
16 language?

17 LINDA WERNIKOFF: So let me say  
18 we've always had to give a bilingual assessment, I  
19 just don't think that we were doing as good a job  
20 as we could. And what I would say is that I think  
21 right now you are probably still more likely to be  
22 referred for an evaluation if you're a second  
23 language learner, but you are not more likely to  
24 be placed in and determined to be disabled. So  
25 while you may be referred because the evaluations

1  
2 are being done more comprehensively, you're not  
3 being found disabled and you're not being given  
4 special ed services.

5 COUNCIL MEMBER ARROYO: I think I'm  
6 worried about that, you're more likely to be  
7 referred. That's-- and there's, on the front end  
8 there's no better way for you to handle it?

9 LINDA WERNIKOFF: Well, I think  
10 what we need to do is, and part of what we do for  
11 all students, is looking at what other  
12 interventions that the school can provide so that  
13 if a student is struggling, special ed is not the  
14 first line of defense.

15 MARCIA LYLES: And that is tied in  
16 directly to the work that we do with our Office of  
17 English Language Learners, to support teachers and  
18 so that we don't get to that point. And part of  
19 what we do is to talk about, and a lot of how we  
20 try to support them in our professional  
21 development, is sort of recognizing those  
22 strategies that are going to be most supportive,  
23 to in essence make sure that the teachers that the  
24 students come in contact with, especially those  
25 teachers who may have them in a-- the students may

1  
2 only be receiving some services through English  
3 Language Learners. For instance they may be  
4 taking ESL classes, but the other classes are in  
5 an English dominant structure, so that those  
6 teachers need to recognize the differences between  
7 what the child has not been able to do because he  
8 hasn't acquired the academic language as opposed  
9 to what the cognitive dysfunctions are.

10 COUNCIL MEMBER ARROYO: So, when we  
11 deal with the number of children who come to the  
12 system from other countries, where despite the  
13 fact that they're eight, nine, ten years old,  
14 they're illiterate probably in their own language  
15 doesn't make them learning disabled.

16 MARCIA LYLES: Right.

17 COUNCIL MEMBER ARROYO: They've  
18 just not been exposed to organized and structured  
19 learning, so that-- how do you handle that child?

20 MARCIA LYLES: Well may of those  
21 students are put into our settings where we have  
22 students with interrupted formal education and  
23 they may have only been in the school system in  
24 their country for a year, if that. And  
25 subsequently we provide them with settings and we

1  
2 provide them with additional support to schools,  
3 with specific additional funding, as well as  
4 resources that they can use, to address those  
5 needs of those students who may not have had that  
6 formal education, subsequently. But that doesn't  
7 mean, just as you're saying, cognitively that  
8 they're not intelligent or they can't acquire.  
9 But obviously they're going to take a little  
10 longer to acquire the command not only of English,  
11 because it could be in their native language, but  
12 of those skills necessary, those reading and math  
13 skills.

14 COUNCIL MEMBER ARROYO: Do you have  
15 data that you can share with us with respect to  
16 that population?

17 MARCIA LYLES: We certainly have.  
18 I mean that's my English Language Learner hat,  
19 because I also supervise that department and we do  
20 have data. We have a lot of that information in  
21 the demographic report we put out on our English  
22 Language Learners annually, and we can get that do  
23 you.

24 COUNCIL MEMBER ARROYO: That would  
25 be interesting to see. And one of the things that

1  
2 I have always heard from the parents in my  
3 community is; I'm a supporter of the small school  
4 environment and programs and I think they work  
5 really, really well for our students and have the  
6 benefit to have a number of small high schools  
7 sited in my district or programs that are  
8 operating, and those schools are doing really,  
9 really well with regards to their graduation  
10 rates. But parents often complain that their  
11 child, if they're special ed or if they're not  
12 proficient in English are not admitted to these  
13 schools. And we know there was, at least there  
14 was a promise-- there was a complaint in 2006  
15 about this exclusion of special ed and limited  
16 language proficiency students to these new schools  
17 in the first two years. And the complaint cited  
18 that Mr. Garth Harries was the architect of this  
19 policy. We were promised that there would be an  
20 examination of this practice and that-- we haven't  
21 heard anything with regards to that. Has it been  
22 concluded? What are the findings? And what are  
23 you doing about it?

24 MARCIA LYLES: Well there are a  
25 number of issues. One is we just received a

1  
2 recent Office of Civil Rights ruling that  
3 determined that our open enrollment application  
4 for high school students did not discriminate  
5 against special populations.

6 COUNCIL MEMBER ARROYO: Your  
7 policies don't, but your principals do.

8 MARCIA LYLES: What we found is  
9 that-- and this is one of the issues, and so it  
10 was addressed somewhat earlier, but in particular,  
11 and I have here the numbers for special ed, as I  
12 said, I have English Language Learners also, but  
13 for new schools, and I'm just taking a look at all  
14 of our new schools, if we take a look at all of  
15 our new schools that we're talking about, those  
16 opened since 2002, the 200 or so schools that we  
17 refer to as our new small high schools, they have  
18 a total percentage of 13.2 percent of the students  
19 who are students with disabilities. For all of  
20 our other schools total system wide, it's 12.9%.  
21 So what we have found is that the enrollment is  
22 indeed comparable. Now, within the first two  
23 years that is not the case, they run roughly  
24 lower. But by the end of the third year they are  
25 absolutely on par, if not higher, than our

citywide average.

COUNCIL MEMBER ARROYO: Why in the first two years? What's-- but that was the compliant by the way. They're not admitted in their freshman year.

MARCIA LYLES: [Interposing] Well they are, as you know, that has changed and we have provided additional access. Again, the first year, we do have students who are in the first year, they have not been denied. The original thinking when you said about what existed previously was around the need to be able to provide the support on that location for the students. And there was this determination that schools needed to build capacity and have that support for the students. It was not that they were denied-- they have not now been denied access, and we have found that we are increasing those numbers each year with the first year of an opening school. Some of our schools immediately have a comparable number, some do not.

COUNCIL MEMBER ARROYO: Okay. So since you opened up that Pandora's box, and can you provide to us the list of the schools that are

1  
2 not?

3 MARCIA LYLES: Well--

4 COUNCIL MEMBER ARROYO:

5 [Interposing] And why the difference? Principals  
6 cherry pick the students. That is a fact. We  
7 deal with complaints in my office on a daily basis  
8 with regards to children that are turned away  
9 because principals or his or her staff are sending  
10 children to other schools in the neighborhood  
11 because they're not willing to take the chance on  
12 a child. In a couple of cases in the very recent  
13 past, in the beginning of this school year, where  
14 PS 31, it used to be the flagship school of  
15 District 7, was turning away students because they  
16 were not English proficient and recommended that  
17 they enroll in another neighborhood school because  
18 they-- whatever reason was given to the parent.  
19 And that's in my mind, I think it's illegal, but  
20 not only outrageous, but it's happening in our  
21 system every single day.

22 MARCIA LYLES: First of all  
23 whenever-- and you've just said a school, whenever  
24 that comes to our attention we address it, we  
25 respond to it. The Chancellor has issued very

1  
2 strong statements to principals about that they  
3 cannot deny students access because they have  
4 disabilities or they are English language  
5 learners. He has held them accountable. You  
6 know, repeatedly, whenever this comes to our  
7 attention if there is such a case, we do address  
8 it immediately and, you know, obviously if people  
9 have come to you I couldn't possibly say that it  
10 never happens, but I can say to you that the  
11 chancellor has been very clear that he will not  
12 tolerate that, and when that comes to our  
13 attention we act on it immediately.

14 COUNCIL MEMBER ARROYO: Okay. I'm  
15 going to end with this. The policies that I have  
16 in my office or the rules that I have in my office  
17 for my staff to follow are very clear, that  
18 they're 100% adhered to all the time, I cannot  
19 guarantee. And I think that the system needs to  
20 engage in a very deliberate process to make sure  
21 that you're testing the system to identify  
22 violations of these policies by principals, so  
23 that you don't have to wait for a Council Member's  
24 office to call with a complaint, but that you're  
25 actively identifying them yourselves and handling

1  
2       them appropriately, because it is happening, it is  
3       happening more often than it is being complained  
4       about, and a lot of attention must be paid to  
5       that. Principals in our system are cherry  
6       picking. It is a fact and it needs to be dealt  
7       with. Thank you.

8                       CHAIRPERSON JACKSON: Thank you,  
9       Council Member Arroyo. Let me just ask a couple  
10      of questions and I know it's getting late and I  
11      want to make sure I have enough time for the  
12      advocates to speak and chime in on this very  
13      important subject. You heard me mention in my  
14      opening statement about the Public Advocate's  
15      report and how overburdened school psychologists  
16      are in this process. In addition, a number of  
17      school psychologists went to the PEP meeting last  
18      April to protest their increased workload, saying  
19      they've been, you know, basically come down to  
20      little more than paper pushers. What is the  
21      Department of Education doing to address that  
22      situation? Can you tell me, for example, have you  
23      hired more psychologists? And what else are you  
24      doing to address the issues and concerns?

25                      LINDA WERNIKOFF: Well the first

1  
2 thing is after that PEP meeting, the Department of  
3 Ed and the UFT had a labor management committee  
4 set up, where we met and addressed some of the  
5 paperwork concerns of the school psychologists,  
6 and I think we had a very fruitful meeting. And  
7 obviously we continue to meet, but I think that we  
8 were able to address concerns about paperwork. I  
9 also will say with all due respect to the public  
10 advocate's report, there was a lot of  
11 misinformation in there. So for example, it gave  
12 the number of school psychologists as 960, when we  
13 have close to 1,100 school psychologists.

14 CHAIRPERSON JACKSON: Okay.

15 LINDA WERNIKOFF: And actually we  
16 have more school psychologists now than we did  
17 before 2002, so that the number is actually 1,100.  
18 In addition I think that one of the other reasons  
19 why we put out a Standard Operating Procedures  
20 Manual is because there was a lot of information  
21 in there that stated that there were certain  
22 responsibilities of school psychologists, such as  
23 arranging for bussing, that just are not accurate.  
24 So I think it overstated what the school  
25 psychologist's role was. In addition, I think one

1  
2 of the statements, and I think it was made at the  
3 beginning of the opening was that we in 2007 added  
4 the evaluation of children who were turning five  
5 to the school psychologist in school for the first  
6 time and that is, you know, not accurate.  
7 Turning--

8 CHAIRPERSON JACKSON: [Interposing]  
9 It's not accurate?

10 LINDA WERNIKOFF: No.

11 CHAIRPERSON JACKSON: Okay.

12 LINDA WERNIKOFF: Students who were  
13 turning five were always part of-- could either be  
14 part of the CSE's or the school's caseload and  
15 that was something-- we have a process called  
16 clustering, not to get into it, but what we do is  
17 we look at the workload, the three-year workload  
18 of every school. We have a committee meeting with  
19 both UFT members and the Department of Ed, and we  
20 look at the workload to make sure that there is a  
21 manageable workload. So that has always been part  
22 of the workload. As a matter of fact many parents  
23 and schools have asked that they'd rather have  
24 evaluations be conducted by the school that  
25 they're likely to go to as a kindergartner,

1  
2 because this way they know them more and they make  
3 appropriate recommendations. So I think that  
4 we've also looked at providing, I think one of the  
5 things that was not in the Public Advocate's  
6 report, was that each of our school psychologists  
7 has a full-time family work clerical staff  
8 assigned to them. And the reason for that is so  
9 that they don't have to do the paperwork. We know  
10 that within the special ed process of referral and  
11 evaluation there are a lot of letters that go to  
12 parents scheduling meetings, due process rights,  
13 and we don't want school psychologists to have to  
14 be spending their time doing that. And that's why  
15 every school psychologists has a full time  
16 clerical family worker assigned to them.

17 CHAIRPERSON JACKSON: Was that even  
18 before they came down to the PEP or after?

19 LINDA WERNIKOFF: No, actually that  
20 has been in effect since this administration in  
21 2002. And one of the things that we talked about  
22 in our labor management meeting was how do we do  
23 some additional training for those clerical  
24 support people to make them more effective for the  
25 school psychologists. And we have been working

1  
2 with the UFT on that to make sure that we provide  
3 high-level training. So I think those issues we  
4 have worked on to make sure that our school  
5 psychologists have the time that they need to  
6 actually be working with students.

7 CHAIRPERSON JACKSON: And what  
8 specific improvements and or things that would  
9 improve the workload of the psychologists came out  
10 of specifically of the labor management meetings?

11 LINDA WERNIKOFF: Well some of it  
12 was just combining forms and finding out ways that  
13 you don't have to do, you don't have to send in  
14 three pieces of paper when maybe one piece of  
15 paper would do. And I think the other big one was  
16 that since there is a full-time clerical  
17 administrative person assigned, really working on  
18 doing a training program for those clericals that  
19 the school psychologists felt were not as helpful  
20 as they could be, to make them as helpful as they  
21 could be, because we have over 1,000 people  
22 assigned to help them.

23 CHAIRPERSON JACKSON: Okay. So  
24 it's my understanding that the information from  
25 the report of the Public Advocate, they

1  
2     ascertained that information directly from the  
3     psychologists themselves, which-- and so it  
4     appears as though that what the psychologists are  
5     saying and what DOE is saying, there's a  
6     difference in I guess what is the truth; the same  
7     as sometimes as when we ask principals formally  
8     and they're not in front of you, they answer us a  
9     certain way and give us what in our opinion is the  
10    real deal. And then we hear from DOE something  
11    different. And quite frankly, I tend to believe  
12    the principals directly. And you may say why is  
13    that. Because they're in the schools. They're  
14    the leaders of the schools. The teachers are in  
15    the school. The psychologists are in the school.  
16    And unfortunately you and the Deputy  
17    Superintendent and the Superintendent for District  
18    75 must rely on information that you have  
19    statistically within your system and or getting  
20    from your directors and or from the school  
21    directly. So, somehow we all have to come on the  
22    same page and synch with where everyone can, will  
23    be able to say with all clarity the same exact  
24    thing. I think you would agree with that right,  
25    that that is necessary? So that no matter who we

ask, whether it's the administration, a psychologist or the teacher or the principal that he answer is the same?

LINDA WERNIKOFF: I would absolutely agree, we want everybody on the same page. But that is why we met with the head of labor management committee, with the UFT, with their psychologists, with their executive board. And I would just like to say something about surveys. There were, the response to the Public Advocate's survey, it was, out of 1,100 school psychologists, it wasn't a random sampling. It was 100 self-selected people. So I take that, you know, I take that with some skepticism as well. But I do say that-- think that having a meeting--

CHAIRPERSON JACKSON: [Interposing] In essence what you're saying is it's not a realistic sampling of the psychologists?

LINDA WERNIKOFF: Or random sampling.

CHAIRPERSON JACKSON: Or random sampling.

LINDA WERNIKOFF: Right. It's just 100 self-selected people out of 1,100. So, that's

1  
2 why I think our labor management meeting with the  
3 UFT was very useful.

4 CHAIRPERSON JACKSON: Okay.

5 LINDA WERNIKOFF: We sat down and  
6 we really put our head together, because I think  
7 our goal is the same.

8 CHAIRPERSON JACKSON: Right.  
9 Right, absolutely.

10 LINDA WERNIKOFF: I don't think we  
11 have different goals, and our goal is to serve  
12 students in our schools to the best that we can  
13 and make sure that we give the support that staff  
14 need to do their job well. And I think we've come  
15 to, you know, we've come to agreements on that.

16 CHAIRPERSON JACKSON: Okay. We  
17 have heard, and to go back, I think that some  
18 people say that if all this information as far as,  
19 if there was a lot more information on the website  
20 to access and to know, then you would not have all  
21 of these questions being asked and speculations  
22 and wrong information. Do you intend on having a  
23 lot more information on your website regarding  
24 this particular area, overall with special  
25 education?

1  
2 MARCIA LYLES: Well actually I  
3 think we have a great deal of information around  
4 special ed on the website, and we have it  
5 translated in various languages for parents. One  
6 of the things, for instance as I mentioned, where  
7 we have the special-- the report for every school  
8 that is on the school's website, which is actually  
9 a link from our department website. We have the  
10 data. We have a great deal of information on the  
11 website. So I'm not sure exactly-- I mean we are  
12 constantly trying to find ways to become even more  
13 transparent and to be more responsive to queries  
14 and things people want to know, but I, you know,  
15 I'm not quite sure what information, what more  
16 information you're talking about, because we would  
17 certainly look to see how we could accommodate  
18 that.

19 CHAIRPERSON JACKSON: I mean the  
20 stats that you gave in response to some of the  
21 questions as far as, you know, the ratio and  
22 ethnic breakdown, the gender breakdown and all of  
23 that stuff, is that information on your website?  
24 Or my understanding manuals and other stuff like  
25 that is, but not statistics for analysis purposes.

LINDA WERNIKOFF: We can check on the overall, but I remember, it might have been two years ago that I came before this Committee and one of the things that was requested that, while we had citywide information up, parents wanted to see information about their child's school. Because you could have 80% of the students receiving a particular service, but I want to know how my school is doing. So as a result of that we did develop a special ed service delivery report, which is now publicly on the website of every school, that gives all the student population, how many kids are awaiting every related service, how many kids are awaiting evaluations, how many kids were referred to special ed, how many students were referred that left the building and had to go to a more restrictive setting. So we really did put down a lot of information and we did make a commitment, we put it up last year at the end of the year, we are doing it twice this year.

CHAIRPERSON JACKSON: I have one from one school here.

LINDA WERNIKOFF: Right.

CHAIRPERSON JACKSON: In my district, yeah.

LINDA WERNIKOFF: And we're going to have-- we're putting it up now, we said we'd do it twice a year. So we're going to do it mid-year, so it should be coming up shortly for mid-year check.

CHAIRPERSON JACKSON: And from an advocate's point of view, in looking at from an entire system, don't you think it would be appropriate to have a district-wide breakdown of the entire statistical information, either borough wide or Citywide? Because you may have the individual school situation, but there's nothing that says system-wide, the percentages, no states like that. That's what I was referring to, and that's what you gave in response to Council Member Maria del Carmen Arroyo.

MARCIA LYLES: We can certainly take a look at having that aggregate information available.

CHAIRPERSON JACKSON: And one of the things I think you had mentioned that they did give the male/female breakdown, but it was not

1  
2 cited. Do you have that citation? It was on the  
3 blackberry.

4 MARCIA LYLES: Right, we were  
5 looking at the...

6 CHAIRPERSON JACKSON: You were  
7 looking at it.

8 MARCIA LYLES: Yeah, trying to get  
9 that.

10 CHAIRPERSON JACKSON: Let me just,  
11 I'll just go to the next question until you--

12 MARCIA LYLES: [Interposing] Okay.  
13 Yes. Male 67.2%, Female 32.8%.

14 CHAIRPERSON JACKSON: That's  
15 citywide.

16 MARCIA LYLES: That's Citywide, and  
17 that is where we find--

18 CHAIRPERSON JACKSON: [Interposing]  
19 In all services or?

20 MARCIA LYLES: --the  
21 disproportionate-- that's overall. But that is  
22 where we know that the males are  
23 disproportionately represented.

24 CHAIRPERSON JACKSON: Okay. We had  
25 heard that self-contained classroom model

described as segregated education and that the students make more progress in CTT classrooms. In your opinion, is that true? And what is the DOE's position on this particular matter?

BONNIE BROWN: I think that segregated special education classes have their place, and for children that have severe needs. And it's just one stop along a continuum of services. I know that many students start in self-contained and then they move to CTT or they move to inclusion, or if we're in a co-located building, they're mainstreamed for certain subjects. So self-contained is based on the intensity of a child's disability, and also in self-contained classes and self-contained buildings, there's a higher degree of support and related services for those children, because most of them when they come in are in crisis at that point.

LINDA WERNIKOFF: If I could just add something.

CHAIRPERSON JACKSON: Sure, go ahead, please.

LINDA WERNIKOFF: I just want to

1  
2 give you some data that I just happen to have.

3 CHAIRPERSON JACKSON: Okay.

4 LINDA WERNIKOFF: I mean the system  
5 used to be inordinately segregated, which meant  
6 that students were not getting the access to the  
7 rigorous general ed curriculum, and also that made  
8 it more difficult for them to earn a regular high  
9 school ed diploma. So just to give you just an  
10 idea, for students, we look at the class of 2007  
11 and the graduation rate, meaning graduating with a  
12 regular high school diploma, for students in  
13 Collaborative Team Teaching was 35.6%. And if you  
14 look at the same class of 2007 for the students in  
15 the special self-contained classes, the graduation  
16 rate was 4.4%. So I think that shows you that  
17 self-contained classes are absolutely necessary.  
18 There are students who absolutely need them. But  
19 I do think that if you look at the breakdown of  
20 students in New York City, the majority of our  
21 students are learning disabled or speech impaired,  
22 meaning that they have moderate disabilities and  
23 should be able to spend time in a general ed  
24 class, with special ed supports, not just put in  
25 there. And I think the outcomes begin to show

1  
2 that it is successful. And if you look at the  
3 third to eighth grade scores, we looked at them  
4 and for Collaborative Team Teaching, students who  
5 had been in Collaborative Team Teaching actually  
6 made greater gains in both ELA and math than  
7 students who were not in Collaborative Team  
8 Teaching.

9 CHAIRPERSON JACKSON: So how would  
10 you respond to an allegation that students that  
11 are in self-contained classrooms are receiving a,  
12 quote unquote, segregated education, meaning that  
13 their education that they're receiving is separate  
14 and unequal, and not from what they rightfully  
15 deserve?

16 MARCIA LYLES: Well if you remember  
17 from previously what I said was our goal was to  
18 move students to the least restrictive  
19 environment. However there are students who do  
20 need, for particular reasons either because of  
21 their learning disabilities or other conditions,  
22 they do need a more segregated or more specialized  
23 environment. Every time, and part of our, one of  
24 our priorities is to move students to a less  
25 restrictive and to a more inclusive environment.

1  
2 However I will say that not every student will  
3 thrive in that less restrictive environment. And  
4 so we have to make the individualized  
5 determination as to how that student will best  
6 succeed. And so it's not a matter of-- I think  
7 that also one of the things that we have done, one  
8 of several things that we have done, is we have  
9 tried to ensure, and in fact as a former  
10 principal, former assistant principals, etcetera,  
11 and many of us can remember those days where  
12 special ed classes were self-contained in terms of  
13 separate wings of the building or in the basement  
14 or whatever; what we have moved to do is to  
15 integrate those special classes within the  
16 framework of, the general framework of the school,  
17 so they're not off separately. We've looked for  
18 more ways to include those students in other--  
19 throughout the day with the students. But there  
20 are students who will need that separate learning  
21 environment.

22 CHAIRPERSON JACKSON: Let me move  
23 to a budget question.

24 MARCIA LYLES: Can I just--

25 CHAIRPERSON JACKSON: [Interposing]

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Sure.

MARCIA LYLES: Before we move to a budget question, because I did get some numbers and so--

CHAIRPERSON JACKSON: [Interposing]  
Okay. Go ahead, please.

MARCIA LYLES: Around the English Language Learners in terms of the special ed.

CHAIRPERSON JACKSON: Okay.

MARCIA LYLES: Approximately 14% of the English Language Learners are special ed, and that's actually comparable to what their population is within the DOE, and so it's-- if 14% of our English dominant students are special ed, it's a comparable percentage. So it's not an over representation in terms of that.

CHAIRPERSON JACKSON: Let me just say that I'm pleased that in response to some of the questions where you did not have an immediate answer that you're using technology to obtain those answers before the hearing process is over.

LINDA WERNIKOFF: Blackberries sometimes have a helpful piece.

CHAIRPERSON JACKSON: Sometimes

1  
2 they do. Yes. Let me move to a budget question  
3 if I may. Chancellor Joel Klein testified before  
4 the joint session of the New York State  
5 Legislature yesterday about the state education  
6 budget. He made several specific recommendations  
7 for changes to the state's funding rules and  
8 regulations. Regarding special education  
9 regulations he stated: You should urge the Board  
10 of Regents to relieve some Special Education  
11 Mandates. This would not cost the state anything  
12 and would put more money into our classrooms where  
13 it could help our students. Could you please  
14 explain the Chancellor's proposal that the Board  
15 of Regents remove requirements from some minimum  
16 level of special education services for each  
17 student and allow schools to add more students to  
18 classrooms with chronically low attendance rate.  
19 Explain the programmatic and budgetary  
20 implications of the proposals.

21 LINDA WERNIKOFF: I'll try to take  
22 that. One of the examples, and I think the  
23 Chancellor said specifically was speech. For some  
24 reason, in New York State regulations which are--  
25 first of all the first thing is the kinds of

1 changes we're looking at are changes that are not  
2 in the federal legislation. So they are  
3 regulations that New York State has over and above  
4 what's required by the Federal Individuals With  
5 Disabilities Act. And one of the things that the  
6 state regulations say that if a child needs speech  
7 therapy they must get it no less than twice a week  
8 for 30 minutes. There are six other related  
9 services where there's no minimum requirement. So  
10 the issue becomes, if I'm a child who only needs  
11 speech therapy once a week or maybe twice monthly,  
12 why should the school system, in order to deliver  
13 that service, give it more than an individual  
14 child may need it. So--

16 CHAIRPERSON JACKSON: [Interposing]  
17 You don't have minimum requirements in six other  
18 areas. You have one in this requirement. So why  
19 have it in that requirement?

20 LINDA WERNIKOFF: Right.

21 CHAIRPERSON JACKSON: But if a  
22 student needs it five days a week, then the  
23 student should have it five days a week.

24 LINDA WERNIKOFF: Absolutely.

25 CHAIRPERSON JACKSON: If a student

needs it only once a week-- in essence that's what you're saying?

LINDA WERNIKOFF: Exactly. It just doesn't make any sense. And if the essence of special ed is to provide services based on an individual need of a student, then why would the state just arbitrarily decide with no research behind it, and being a speech pathologist I feel comfortable saying this, that you have to give it twice a week.

CHAIRPERSON JACKSON: How long has that been in the state regs?

LINDA WERNIKOFF: For as long as I can remember.

CHAIRPERSON JACKSON: I see.

LINDA WERNIKOFF: And I'm getting up there in age. I think the other thing that we're looking at and I think the Chancellor stresses in his testimony, this is not about diminishing services to students who need them, it's about having flexibility to make appropriate decisions. And I think the maximum caseload issue was, and I'll give you a specific example; special ed teacher support services, as we described it

1 before, there are students in general education  
2 who can get one, two, or three periods of special  
3 ed teacher support either in their classroom or  
4 out of the classroom. Students with-- the teacher  
5 can have up to eight students in the group at  
6 once, right? And teachers teach five periods a  
7 day. So if I have eight students in a group and I  
8 teach five periods a day, I could have a caseload  
9 of 40 kids. Correct? Under state regulations if  
10 I'm an elementary school SETSS teacher, I can only  
11 have a caseload of 30. I'm not sure why. There's  
12 no research behind it. It's very arbitrary, an  
13 across the board rule, and we're not saying that  
14 every SETSS teacher might have 40, because we have  
15 students that get it two and three times a week.

17 CHAIRPERSON JACKSON: Every what  
18 teacher? I'm sorry.

19 LINDA WERNIKOFF: Every one of the  
20 special ed teachers who provide the service could  
21 have 40, because sometimes you have kids who get  
22 it two or three times a week, they get it in a  
23 smaller group size. But I think what the  
24 Chancellor was saying is that these across the  
25 board arbitrary kinds of recommendations go

1  
2 against the IDEA and the individualization and are  
3 actually potentially costing more money, because  
4 we're providing a level of service not based on a  
5 child's need but some regulation.

6 CHAIRPERSON JACKSON: Is it  
7 possible you can provide this Committee a list of  
8 whatever recommendations the Chancellor is  
9 specifically referring to? I assume that you know  
10 them because in essence you, you're the special ed  
11 experts I assume he's taken his advice from.

12 LINDA WERNIKOFF: We will get--

13 CHAIRPERSON JACKSON: [Interposing]  
14 So if you could provide that, I would appreciate  
15 it. And do you have a cost savings estimate of  
16 what the savings would be overall? I assume  
17 that's factored in somewhere.

18 LINDA WERNIKOFF: We'll take that  
19 back, and I hear your request.

20 CHAIRPERSON JACKSON: Well I want  
21 to thank the three of you for coming in. Do you  
22 mind if I ask one additional question? I'm sorry.  
23 Can you explain, I guess this is, Dr. Lyles, more  
24 for Linda and or Dr. Brown, can you please-- and  
25 you may know it, you know more than so many

1  
2 people? Can you please describe how a child with  
3 dyslexia can get assessed and gets help? Is it  
4 the same process if a child with dyslexia-- is  
5 that considered a child with special needs that  
6 needs an IEP?

7 LINDA WERNIKOFF: I'm going to try  
8 to answer this where I don't sound, you know, too  
9 special ed-y as they say. Dyslexia itself is not  
10 one of the 13 handicapping conditions in state  
11 law. But it is--

12 CHAIRPERSON JACKSON: [Interposing]  
13 In order to get an IEP, you mean?

14 LINDA WERNIKOFF: Right. But it is  
15 encompassed under the broader definition of a  
16 learning disability.

17 CHAIRPERSON JACKSON: Okay.

18 LINDA WERNIKOFF: So one of the  
19 things, if a child is having a reading difficulty,  
20 the first thing we want to do, the school would do  
21 is see, is there a reading program that they could  
22 provide for this child. So one of the things that  
23 we did way back in 2003 is we heard from parents  
24 across the system both in children with dyslexia  
25 and parents who had children in special ed that

1  
2 there are Orton-Gillingham based reading programs  
3 that are very-- researched based to be successful  
4 with children with Dyslexia and other kinds of  
5 learning disabilities and how come it wasn't  
6 available in the public schools. Well we're happy  
7 to say that almost seven years later we do have  
8 the Wilson Reading Program and Foundations, which  
9 is a-- for earlier grades, which is an Orton-  
10 Gillingham based reading program which has been  
11 phenomenally successful. The good thing about  
12 that is when we do the training we train both  
13 general ed teachers and special ed teachers. So  
14 if I'm a child who have a reading problem like  
15 Dyslexia, I can get that Wilson Reading Program  
16 without having an IEP, because if that's what I  
17 need and I can progress-- however if that's not  
18 working or somebody believes I need more intensive  
19 services in addition to just getting the Wilson, I  
20 might need some related services, then you go  
21 through the IEP process, and under the rubric of  
22 learning disabled you can be found eligible for  
23 special ed.

24 CHAIRPERSON JACKSON: And as far  
25 as, I guess the first initial step is if someone

1  
2 sees that a child is not at the level that they're  
3 supposed to be, an assessment?

4 LINDA WERNIKOFF: Absolutely.

5 CHAIRPERSON JACKSON: And that  
6 assessment is done at the school?

7 LINDA WERNIKOFF: Yes.

8 CHAIRPERSON JACKSON: I'm sorry,  
9 maybe just because I don't know, who does that  
10 assessment? Is that the psychologist? Is that  
11 someone else or do you need someone with the  
12 special training to know Dyslexia in order to  
13 assess that?

14 LINDA WERNIKOFF: No, the  
15 psychologists do those assessments, and when you  
16 do an assessment, you're looking at all of the  
17 child's underlying processes, whether it's  
18 reading, writing, listening, speaking, and that  
19 will provide you with the information of why this  
20 child is not progressing in school and what the  
21 underlying issue is. There's not a particular  
22 test for dyslexia. It is a reading problem and it  
23 is among many different reading problems that  
24 students can have.

25 CHAIRPERSON JACKSON: Well let me

1  
2 thank you all for coming in. I appreciate it and  
3 look forward to working with you, and please get  
4 us that information. Thank you. Our first panel  
5 is going to be Carmen Alvarez, the Vice President  
6 for Special Education for the United Federation of  
7 Teachers. Vice President Alvarez; we're going to  
8 have Maggie Moroff, the ARISE Coalition; after her  
9 Christopher Treiber from Parents for Inclusive  
10 Education. I'm just calling your name for you to  
11 get ready. Linda Ostreicher, from the Center for  
12 Independence of the Disabled, NY; and Kim Sweet,  
13 Advocates for Children. Just introduce yourself  
14 and your title and you may begin. Press the  
15 button, please.

16 CARMEN ALVAREZ: Good afternoon  
17 Chairman Jackson and members, or their  
18 representatives, members of this distinguished  
19 Committee. My name is Carmen Alvarez. I am the  
20 Vice President for Special Education at the United  
21 Federation of Teachers, and at the conclusion of  
22 my testimony, I'll try to answer some of the  
23 questions regarding the PEP and the Labor  
24 Management Committee, but if you still need to ask  
25 me questions, I'll be more than glad to answer

those, because I was there. Thank you for the opportunity to present our views about the current state of Special Education in the City of New York. We are here because you listened to the stories of parents in Manhattan, Queens, Brooklyn, the Bronx and Staten Island, who tried to navigate the special education bureaucracy in New York City to secure supports and services for their children. We are here because you read about the hundreds of parents who stood in line for days in the Bronx when school opened last September, attempting to secure placements, and the children who ride overcrowded buses, some of which routinely arrive late and leave early because of the length of the new school bus routes. We are grateful that there are elected officials like yourselves who treat the voices of the parents and school personnel with respect and who take on the responsibility for righting the system when things go very wrong. As you may know, my office answers questions and attempts to resolve problems and complaints concerning special education. While the majority of complaints are submitted by members, the services of my office are open to

1  
2 parents. These are some of the complaints, a  
3 variety of issues that have arised; these are not  
4 all of them and I'm not going to read all of them,  
5 here are some: Failure to provide copies of the  
6 individualized education programs to the teachers  
7 and service providers responsible for implementing  
8 them, and that is a law which they do not follow;  
9 failure to properly staff Collaborative Team  
10 Teaching; failure to hire Para Professionals for  
11 students who are recommended to receive one on one  
12 Para Professional support; refusal to hire  
13 substitutes for special education teachers who are  
14 on long-term leaves of absences; routine  
15 undeserving of students recommended to receive  
16 occupational and physical therapy in District 75;  
17 failure to provide services in a separate location  
18 in accordance with an IEP mandate. I just got  
19 this email from a parent, and this is what a  
20 parent emailed me. And I asked her, give me the  
21 information that's written on the IEP and she said  
22 to me, Carmen, on page one it says: resource room  
23 with services, group size of 8:1 outside of the  
24 classroom, separate location. The special ed  
25 teacher, the general ed teacher, says five periods

1  
2 direct, outside of the classroom. It's the best  
3 model for the student. What does the principal  
4 say? No, you can't. No kids are allowed out of  
5 the classroom. And that happens hundreds and  
6 hundreds of times a day. However--

7 CHAIRPERSON JACKSON: [Interposing]  
8 In essence a principal is violating the IEP?

9 CARMEN ALVAREZ: You got it. This  
10 year with the help if Linda Wernikoff, and the  
11 staff of the Office of School Improvement and the  
12 Integrated Service Centers, we have been able to  
13 address most of the complaints we have received,  
14 including this one. But the sheer volume of  
15 complaints demonstrates that there are significant  
16 systemic issues. These issues, in my view, can be  
17 traced to several factors. One, the elimination  
18 of special education at the school level as a  
19 result of the 2003 reorg-- that is the ed  
20 evaluators and the special ed supervisors; the  
21 flexibility given to principals regarding the use  
22 of special education funds; the failure to report  
23 data regularly in a user-friendly public format  
24 regarding delivery of special education services;  
25 and failure to hold schools accountable for

1 implementing IEPs. This is actually one phrase  
2 that captures all of the above: principal  
3 empowerment, a signature feature of the Children  
4 First reforms. Principal empowerment has fostered  
5 an atmosphere of intimidation and lawlessness with  
6 regard to special education in our 1,500 schools.  
7 So you may have 1,100 psychologists, but you've  
8 got 1,500 schools and growing. We had a delegate  
9 assembly yesterday and we did an informal  
10 assessment. 1,000 chapter leaders. And Randi  
11 asked them, how many of you are in a school with  
12 one principal? And out of 1,000, maybe 20, which  
13 means the majority of the schools now have one,  
14 two, three, four or more schools in a building,  
15 with principals that say it's my way or the  
16 highway; and I'm not saying they're good, bad or  
17 indifferent. They've been given that imprimatur  
18 that this is their building. So if you have one  
19 school psychologist, they'll say to that  
20 psychologist, you're mine; the other one says  
21 you're mine. You can't serve three or four  
22 masters. So we do need more school psychologists,  
23 because you cannot serve the young people  
24 adequately if you are pulled apart. Perhaps the  
25

1  
2 most important measure of how special education is  
3 doing in New York City is the graduation rate for  
4 students with disabilities. As revealed by the  
5 New York State Education Department Statistics  
6 reported by our New York Staff, teacher staff, the  
7 graduation rate for students with disabilities are  
8 disturbing. In 2007, New York City graduated just  
9 20% of its students with disabilities after four  
10 years, most with local diplomas, and only 24%  
11 after five years. Even depressed big four upstate  
12 cities do better. Now here's the numbers that  
13 they talked about before, but not fully. And  
14 statewide, 39% of special education students  
15 graduate in four years, and 47% in the entire  
16 state; I don't have the big five, after five  
17 years. These rates are still unacceptably low--

18 CHAIRPERSON JACKSON: [Interposing]

19 But--

20 CARMEN ALVAREZ: [Interposing] Yet  
21 they're far higher than New York City public  
22 schools.

23 CHAIRPERSON JACKSON: But what I  
24 heard in the testimony by the DOE officials is  
25 that the statewide goal is 39% for children with

special needs, special education diploma, and that overall statewide they were nowhere near that 39% figure. So, your figures are different than what was said.

CARMEN ALVAREZ: Correct.

CHAIRPERSON JACKSON: Where are you getting your stats from?

CARMEN ALVAREZ: From the State Education Department.

CHAIRPERSON JACKSON: So if I go to the State Education Department website--

CARMEN ALVAREZ: [Interposing] We will give you the link.

CHAIRPERSON JACKSON: The website-- so 39% within four years and 47% within five years.

CARMEN ALVAREZ: Statewide.

CHAIRPERSON JACKSON: And DOE said that no one is near the 39% graduation rate overall.

CARMEN ALVAREZ: Correct.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: I will send you the link. It will be my pleasure. The other

number that they didn't put, and I didn't put it in mine either, but you can write it in now, is that the rising number of IE diplomas is especially disheartening. For New York City it's 20.5%. That means IEP--

CHAIRPERSON JACKSON: [Interposing]  
I'm sorry, the rising number of?

CARMEN ALVAREZ: IEP diplomas. Do you know what that is? I'm sure you do.

CHAIRPERSON JACKSON: That's someone that has finished their plan. Is that correct?

CARMEN ALVAREZ: It means that--

CHAIRPERSON JACKSON: [Interposing]  
Their goal?

CARMEN ALVAREZ: What it means is--

CHAIRPERSON JACKSON: [Interposing]  
Education.

CARMEN ALVAREZ: You have a diploma that looks very similar to a local diploma, a Regents Diploma, Advanced Regents Diploma. But they mean entirely different things. An IEP diploma is basically you achieved goals and a certificate of attendance.

CHAIRPERSON JACKSON: That's it?

CARMEN ALVAREZ: That's it.

CHAIRPERSON JACKSON: So it's not the same as a local diploma.

CARMEN ALVAREZ: No it doesn't--

CHAIRPERSON JACKSON: [Interposing]  
Not at the same quality level as a local--

CARMEN ALVAREZ: [Interposing]  
Correct.

CHAIRPERSON JACKSON: --or Regents or whatever.

CARMEN ALVAREZ: Or a GED.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: For example, IEP diplomas nullify many entry-level options upon graduation. You cannot enter the majority of civil service jobs. You cannot enter the armed services. You cannot go to college. You cannot become a Para Professional. For all intents and purposes, you are excluded from the workforce.

CHAIRPERSON JACKSON: So why do we call it a diploma?

[Laughter]

[Applause]

CARMEN ALVAREZ: That is one of the \$64 billion stimulus questions.

COUNCIL MEMBER JACKSON: I'm not laughing. You know as a layperson, I'm serious. Why do we call it a diploma because, I mean, a diploma gives the impression that you've reached a certain level, that you can move on to the next phase in life as far as education.

CARMEN ALVAREZ: Correct.

CHAIRPERSON JACKSON: How long has it been called a diploma?

CARMEN ALVAREZ: This has been from the Committee we sat in, and many of my colleagues sat in there with me, it was 1981 and at that time I can say very honestly there were more jobs that you could enter, the civil service, and become a Para without a diploma.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: But over the current 10, 20 years, it has changed but the system has not.

CHAIRPERSON JACKSON: And is that IEP diploma, is that in state regs?

CARMEN ALVAREZ: Yes, it is.

CHAIRPERSON JACKSON: So has someone made a recommendation that we should change that? We have? Okay.

CARMEN ALVAREZ: We're in conversation and many of us really resonated, and I can tell you the UFT's personal point of view is, and I've spoken to everybody about it, is that young people with disabilities and even Gen Ed students who are over age and under credited should have a graduation plan. And that plan starts in the eighth grade. Even the State Ed Department said, in colleges in the two-year colleges it takes them three years to graduate, and in the four-year colleges it takes them six years to graduate. And the law allows young people with disabilities--

CHAIRPERSON JACKSON: [Interposing]  
You mean those with an IEP, you mean?

CARMEN ALVAREZ: Anybody.

CHAIRPERSON JACKSON: Oh, anyone overall.

CARMEN ALVAREZ: Anybody.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: So the law allows

1  
2 our young people to use up to the age of 21 to get  
3 this degree. And our focus is to give them this,  
4 so it has to be in our opinion reviewed every six  
5 months to see what do they need. And I'll give  
6 you one other piece of information. Did you know  
7 that the State does allow that you can take  
8 courses over the course of a year, that you can  
9 take the Regents exam on separate days? There are  
10 different things that can be done to help these  
11 young people level the playing field so they can  
12 acquire these entry points. But this system does  
13 not use them.

14 CHAIRPERSON JACKSON: The City's  
15 system?

16 CARMEN ALVAREZ: The State has it  
17 in there.

18 CHAIRPERSON JACKSON: Okay, so the  
19 City has--

20 CARMEN ALVAREZ: [Interposing] The  
21 City has not used them and they have, believe me,  
22 they have not focused their conversation on how we  
23 can use the most of what's available to help these  
24 young people graduate with a credential into our  
25 society.

CHAIRPERSON JACKSON: Would that be an additional cost factor though?

CARMEN ALVAREZ: Actually, no. The way we're-- and we're going to do a cost-benefit to be honest with you, because I want to give you hard data. But I can tell you right now that our young people are either taking a long time anyway, or they drop out and they enter, and I can tell you because I've been to Riker's Island, we have 1,000 young people circulating monthly, every six months to a year, that what it costs to put them in a prison system and you know, in Marian Wright Edeleman's Paper in terms of stopping the pipeline, what we need to do is create programs, literacy programs for our young people and give them the skills so they can succeed. And I just have not heard any kind of option like that from the Department of Ed, and we have brought that up on several occasions. So, as you are undoubtedly aware, the Chancellor recently announced that he has given Garth Harries, a lawyer with an MBA degree who came to the Department of Education, the DOE, from McKinsey and Company, the task of carrying out yet another reorganization of special

1  
2 ed in New York City. Pardon me if I'm suspicious  
3 about the timing. We are in the midst of a severe  
4 budget crisis and special education is one of the  
5 most high-ticket items in our public schools. But  
6 you don't have to share my suspicions, because we  
7 have the rationale straight from the Chancellor's  
8 spokesperson. Mr. Cantor, who told Gotham Schools  
9 Reporter Philissa Cramer that: the reorganization  
10 is most definitely related to the current budget  
11 positions, because it is laying the groundwork for  
12 the department to eliminate positions. There you  
13 have it.

14 CHAIRPERSON JACKSON: Is this what  
15 Mr. Cantor said to--

16 CARMEN ALVAREZ: [Interposing] That  
17 is correct. And I can send you that email too.

18 CHAIRPERSON JACKSON: Okay.

19 CARMEN ALVAREZ: And when you ask  
20 them, the Department of Ed, how much time he's  
21 dedicated to this position and its fulltime, that  
22 scares me even more. Can this reorganization be  
23 salvaged in the court of public opinion? What  
24 will it take for our members, parents, advocates,  
25 disability group representatives and other

1 stakeholders to trust that the reorganization will  
2 make the provision of special education better and  
3 more effective, in the words of Mr. Cantor, not  
4 just more efficient or less costly? Anyone who  
5 knows me has heard me say that every challenge  
6 brings an opportunity. I really couldn't do the  
7 work that I do if I did not believe that in my  
8 heart the opportunity for the Department of Ed and  
9 the way to salvage this reorganization is to work  
10 in a new way with stakeholders. Mr. Harries  
11 admits that he has little knowledge of special  
12 education, but there is a vast amount of  
13 knowledge, experience, talent in this room and  
14 outside of this room. We need you, members of the  
15 City Council's Education Committee, to tell the  
16 Chancellor that you expect Mr. Harries to engage  
17 the entire special education community in this  
18 reorganization. We say to the Chancellor, take  
19 the leap, share the leadership, build ownership,  
20 share responsibility, use conflict to build trust  
21 and grow. Let's do the Obama model. Let's do  
22 rivals with different opinions. From establishing  
23 core principles to guide the reorganization to  
24 planning and implementation, move forward through  
25

dialogue and consensus, respecting each participant's contribution and point of view.

Let's make sure that this reorganization works, not just to cut costs, but to build community and improve outcomes for children with disabilities.

I will conclude my offering by offering my thoughts on the core principles that should guide this reorganization. I'm just going to highlight the ones that resonate the most for me. The needs of children with special needs and their family must truly be our first priority. Schools must be held accountable for complying with special education laws and regulations and fully implementing children's IEPs. School personnel must have the knowledge, tools and time, including time to collaborate with other professionals to do their jobs effectively. Quality transition planning must take place for every child with a disability, beginning in middle schools and reviewed annually or biannually. The expectation for all our students with disabilities who participate in a regular assessment with or without accommodations must be a real diploma that will allow them to secure meaningful employment,

1  
2 live independently and participate in our  
3 democracy. Data that is regularly collected to  
4 monitor compliance and outcomes must be presented  
5 in a format easily consumed by users and shared  
6 with the public on a regular basis. It's a long  
7 list, but it is doable and we do not expect less.

8 CHAIRPERSON JACKSON: Well, let me  
9 ask a question now. You heard the Department of  
10 Education mention about after the PEP where  
11 psychologists basically were very upset and  
12 complaining about their caseload and equated  
13 themselves to almost like paper pushers. There  
14 was a labor management meeting. What results in  
15 your opinion as a Vice President for Special  
16 Education came out of that labor management  
17 meeting? My question is one, was there an  
18 increased number of staff as far as were there  
19 more psychologists hired? Is the information that  
20 was given to us, that Betsy Gotbaum report  
21 indicated I think that they said 900 and  
22 something, and they said in reality there's 1,100,  
23 if you can set any information on that; is it  
24 true, based on your opinion as the Vice President  
25 for Special Education, does each psychologist have

1  
2 a staff member to assist them, and what outcomes  
3 was initiated as a result of that labor management  
4 committee meeting?

5 CARMEN ALVAREZ: Let me just give  
6 you a little background. The PEP meeting, which  
7 was hidden in some school in the back where hardly  
8 anybody could find it, the reason we-- the  
9 psychologists got there, because they had had it.  
10 We were outreaching to the Chancellor and to other  
11 folks at the DOE and they refused to pay  
12 attention, so we formed a rally and a very loud  
13 one. When we got there, Mr. Best came out and  
14 asked us can you ask them not to speak? I said  
15 sorry, to late. But if you want us to meet, why  
16 don't you commit to a meeting. So the Chancellor  
17 did allow everybody to speak and then he committed  
18 to a meeting.

19 CHAIRPERSON JACKSON: Mr. Best  
20 being the General Counsel to the Department of  
21 Education?

22 CARMEN ALVAREZ: That is correct.

23 CHAIRPERSON JACKSON: Okay.

24 CARMEN ALVAREZ: And he came with  
25 Linda Wernikoff and approached myself and the

1  
2 director of staff.

3 CHAIRPERSON JACKSON: Okay.

4 CARMEN ALVAREZ: After that was  
5 established we met with the Chancellor and of  
6 course we problem solved and we suggested, we the  
7 UFT, a labor management committee. And the  
8 Chancellor said, great idea, let's do it. So we  
9 did. And we sat, and actually Linda Wernikoff is  
10 accurate, we dealt with the paper issues. But the  
11 first question you asked is did you increase,  
12 request more school psychologists. We absolutely  
13 did, for the very example we're giving you.  
14 They're adding more schools and you have one  
15 psychologist in one building. They cannot serve  
16 two or three administrators, you just simply  
17 cannot. And that is an increasing model and they  
18 have not adjusted their staffing model to their  
19 opening of the school models. So we're trying to  
20 in order to prove-- you know, we have to prove our  
21 point, is we go to the Labor Management Committee,  
22 deal with the paperwork. You do have the office  
23 workers who have, there are 1,000, but there are  
24 two types. You have a group of family workers who  
25 are not as skilled as some of the trained

1  
2 clericals. So what you have is now a mutual  
3 committee doing training so the skill base is  
4 elevated. And they did work with us--

5 CHAIRPERSON JACKSON: [Interposing]  
6 Skill base of the?

7 CARMEN ALVAREZ: Of the family  
8 workers and the clericals to make sure they're  
9 able to run that.

10 CHAIRPERSON JACKSON: How long is  
11 that going to take?

12 CARMEN ALVAREZ: It takes time,  
13 because you have different, you have five ISCs--

14 CHAIRPERSON JACKSON: [Interposing]  
15 I understand that. But is it going to take five  
16 years? Is it going to take three years?

17 CARMEN ALVAREZ: No, to be honest  
18 with you, I think it's happening right now. We  
19 just went through a series of staff developments.  
20 But here's the dilemma. It goes back to the  
21 principals again. The principals are sometimes  
22 using their clericals to do what they want. And  
23 then, you know, you're in the school and you don't  
24 want to be U rated or bounced out because it's  
25 their school and they can do that. So again, the

1  
2 lawlessness and the high level of intimidation, to  
3 the degree that even when I speak to the  
4 Department of Ed and some of the people that you  
5 may speak to, not necessarily the three who were  
6 here, will tell me: we are here to support the  
7 principals, we do not tell them what to do.

8 CHAIRPERSON JACKSON: I see.

9 CARMEN ALVAREZ: So nobody--

10 CHAIRPERSON JACKSON: [Interposing]  
11 Even though they may know that the principal is  
12 violating the law?

13 CARMEN ALVAREZ: Absolutely. That'  
14 why I have that--

15 CHAIRPERSON JACKSON: [Interposing]  
16 So an IEP--

17 CARMEN ALVAREZ: [Interposing]  
18 That's correct.

19 CHAIRPERSON JACKSON: An IEP is  
20 based on the special education-- the law.

21 CARMEN ALVAREZ: It's based on the  
22 law. It is technically the legal contract between  
23 the parent and the Department of Education. And  
24 it's been done by a team who have assessed that  
25 this is the best way--

CHAIRPERSON JACKSON: [Interposing]

But then why doesn't someone file an appeal, a grievance, why doesn't the union or the parent file a grievance that the principal is violating the IEP, in essence violating the law?

CARMEN ALVAREZ: We do. And I have over 3,000 complaints. The problem is you can't do it school by school. Because--

CHAIRPERSON JACKSON: [Interposing]

So it's systemic.

CARMEN ALVAREZ: It's systemic.

And if you don't address it as a systemic requirement--

CHAIRPERSON JACKSON: [Interposing]

Right.

CARMEN ALVAREZ: That's why when you had the special ed supervisors and the ed evaluators who held the integrity of the law and what revolves around the IEP was removed there was nobody else to watch the shop. There is no sheriff in town.

CHAIRPERSON JACKSON: You know, you mentioned that the psychologist is in the school let's say where there's three--

CARMEN ALVAREZ: [Interposing]  
Campus sites.

CHAIRPERSON JACKSON: Campus, okay.  
Psychologists, I mean they know what they have to  
do. They know their job responsibilities, to  
evaluate students and what have you and so forth.  
I mean why would--

CARMEN ALVAREZ: [Interposing] When  
Principal A says you cannot see these kids, these  
other kids in this other school on those two days  
because I want you to do a staff development, or I  
have an emergency, you can't do it, you don't.  
You have to respond to two or three principals.

CHAIRPERSON JACKSON: Okay. So  
assuming that the psychologists are saying-- okay  
wait a minute. No, this doesn't work. Who do  
they go to?

CARMEN ALVAREZ: Great question.

CHAIRPERSON JACKSON: No, I'm  
serious. Who do they go to?

CARMEN ALVAREZ: We try to-- well  
this is what we're trying to do--

CHAIRPERSON JACKSON: [Interposing]  
Do they go to the Superintendent?

CARMEN ALVAREZ: What we do is we go straight to the Integrated Service Center. We speak to the head of the special education and then Vincent Clark.

CHAIRPERSON JACKSON: So everything with the Integrated Service--

CARMEN ALVAREZ: [Interposing]  
Correct.

CHAIRPERSON JACKSON: It's not the Superintendent of the district?

CARMEN ALVAREZ: No.

CHAIRPERSON JACKSON: Not the immediate supervisor of the principal.

CARMEN ALVAREZ: No.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: So--

CHAIRPERSON JACKSON: [Interposing]  
And now we're having a new system, a new change?

CARMEN ALVAREZ: We don't know what it is yet until they reveal it.

CHAIRPERSON JACKSON: Constant change.

CARMEN ALVAREZ: That's the thing--  
that's very, yes, scientific. The one thing

that's constant is change. And the one thing it is, this change has not helped our young people with disabilities as well as our English language learners.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: In terms of Betsy Gotbaum's report--

CHAIRPERSON JACKSON: [Interposing]  
Yes.

CARMEN ALVAREZ: It was random sampling.

CHAIRPERSON JACKSON: It was random sampling?

CARMEN ALVAREZ: Absolutely.

CHAIRPERSON JACKSON: Why do you think that they say it was not random, it was 100 specific individuals that they selected?

CARMEN ALVAREZ: My personal opinion is--

CHAIRPERSON JACKSON: [Interposing]  
How can you prove to me now that it was random sampling? Where did you get your information from?

CARMEN ALVAREZ: From Betsy

1  
2 Gotbaum's office and Mark.

3 CHAIRPERSON JACKSON: Okay, I'm  
4 just asking you. I just want to know.

5 CARMEN ALVAREZ: Absolutely. We  
6 work very closely with everybody.

7 CHAIRPERSON JACKSON: Okay.

8 CARMEN ALVAREZ: The Department of  
9 Ed, as well as Betsy Gotbaum, your office,  
10 anybody-- listen, we're here to help these young  
11 people.

12 CHAIRPERSON JACKSON: Right.

13 CARMEN ALVAREZ: We don't care we  
14 can, you know, generate that interest. So we,  
15 what we try to do is give accurate information,  
16 accurate statistics so they know we're talking the  
17 real deal. So, yes, we talk to Betsy all the  
18 time, her office all the time.

19 CHAIRPERSON JACKSON: And what  
20 about the report supposedly said 900 and something  
21 psychologists and DOE is saying 1,100. What's  
22 your--

23 CARMEN ALVAREZ: [Interposing] They  
24 do have 1,100 but they're not assigned all to the  
25 schools to do the same thing. Some are part of

the CSE, some are part of the CPSEs. Some are part--

CHAIRPERSON JACKSON: [Interposing]  
So as far as school based?

CARMEN ALVAREZ: That's correct.  
You've got to catch them and corral them and say, how many are set in the schools as the key person for the assessment, the case manager--

CHAIRPERSON JACKSON: [Interposing]  
Right, the caseload, they're doing the work.  
They're doing the work, is that correct?

CARMEN ALVAREZ: So I would say  
it's higher than 960, but it isn't 1,100.

CHAIRPERSON JACKSON: Okay.

CARMEN ALVAREZ: That deal with  
that responsibility. And yes, we need more. No question about it.

CHAIRPERSON JACKSON: Well let me  
thank you for coming in and representing--

CARMEN ALVAREZ: [Interposing]  
Thank you very much.

CHAIRPERSON JACKSON: Oh, I'm  
sorry. My colleague Lou Fidler.

COUNCIL MEMBER FIDLER: Just it's

more of a comment than a question, Ms. Alvarez,  
and I guess it's not even necessarily a positive  
one in the sense that you know, you've mentioned  
let's try-- the DOE try the Obama method and  
share--

CARMEN ALVAREZ: [Interposing] Team  
of rival type of thing.

COUNCIL MEMBER FIDLER: I mean  
sharing responsibility, that is just never going  
to happen at this DOE where it's the Bloomberg  
model of my way or the highway.

CARMEN ALVAREZ: Agreed.

COUNCIL MEMBER FIDLER: And I would  
say to you and I would urge every parent advocate  
in this room to follow the debate in Albany on  
Mayoral control of the school

CARMEN ALVAREZ: Our report is  
coming out next week. Yes.

COUNCIL MEMBER FIDLER: Not because  
we want to go back to the semi-dysfunctional  
school boards--

CARMEN ALVAREZ: [Interposing]  
Correct.

COUNCIL MEMBER FIDLER: But because

1  
2 we need a system where the opinions of educators  
3 that are in the front lines, in the classrooms,  
4 the teachers and the parents have to actually be  
5 listened to. And, you know, the idea that if we  
6 don't get at least municipal control out of this,  
7 so that there is a check on the imperial authority  
8 of this Mayor and the Chancellor to run the  
9 schools, then we will have failed. And until  
10 then, dissent is just managed, not listened to,  
11 and it will be like the scene at the end of the  
12 movie Animal House where pandemonium is breaking  
13 out and rioting is going on and they stand in the  
14 streets saying, all is well, all is well. So  
15 that's the debate for this spring that's going to  
16 matter to special ed parents--

17 CARMEN ALVAREZ: [Interposing]

18 Absolutely.

19 COUNCIL MEMBER FIDLER: To every  
20 parent, to every teacher in this City. And so  
21 when you walk out of here, just keep that in mind.  
22 That is what this is about.

23 CARMEN ALVAREZ: I just want to  
24 thank you for that comment because I also am one  
25 of the co-chairs of the UFT Governance Task Force,

1 and that paper is coming out next week, once our  
2 delegate assembly votes on it. And I think it  
3 does address all the issues you outlined. I just  
4 want to say one thing, Councilman Jackson. The  
5 thing that saddens me the most, and I think I said  
6 this in 2003 when you held your first meeting on  
7 Special Education and the changes. We have a  
8 continuum of services, and that document is an  
9 extraordinary document because the majority of the  
10 people in this room worked on it. It was  
11 collaborative. We all bought into it. It really  
12 created the notion of service model. It's not a  
13 bad thing if kids don't come out of special ed.  
14 The question is, are these services helping these  
15 young people achieve? I'll end with this example:  
16 my niece went through the school system as a  
17 special ed student. She got terrific services,  
18 with a lot of my oversight. She wanted to  
19 graduate with an IEP diploma and I said, you must  
20 be out of your mind, you better finish it. She  
21 finished it, and she is now going for her Masters.  
22 And she has taught in this system. Special ed  
23 services is extraordinarily useful if done  
24 correctly, and I applaud all of you in this room  
25

and let's continue to make sure that in the next reiteration, and I believe very strongly Mayoral control is part of it, that we can actually change the direction for our young people with IEPs.

Thank you very much.

CHAIRPERSON JACKSON: Thank you.

Kim Sweet, Advocates for Children; Linda Ostreicher, Center for Independence of the Disabled, NY; Christopher Treiber, Parents for Inclusive Education; and Maggie Moroff, the ARISE Coalition. Please have a seat.

[Pause]

CHAIRPERSON JACKSON: Advocates for Children, Kim Sweet.

[Pause]

CHAIRPERSON JACKSON: Kim you may begin. Press the button, please?

KIM SWEET: Good afternoon. Thank you for this opportunity to discuss the Department of Organization-- the Department of Education's reorganization and how they've affected students with disabilities. A little slip there, a big slip. Yeah. My name is Kim Sweet, and I'm the Executive Director for Advocates for Children of

New York. For more than 37 years, Advocates for Children has been speaking out for children with disabilities in the New York City public schools. We work with several thousand parents a year, helping them to navigate a school system that many find both frustrating and daunting. We're also proud to be the founding member of the ARISE Coalition, which a representation of is here today, a diverse group of parents, advocates and others who are banding together to make sure that the needs of students with disabilities in New York City will be addressed. In preparing for this hearing I looked back at a report called Too Little, Too Late, which was issued by the City Council Committee on Education in August of 2003. The DOE under Mayor Bloomberg had just announced its first series of Children First reforms effecting special education, and the Committee report assesses this proposal and identifies areas of promise and concern. In reviewing this report more than five years later, I am struck by two things. First, I am struck that the DOE has not yet addressed some of the Council's most critical concerns identified in that report. There has

been no concerted effort to improve program and service options for students with emotional or behavioral problems. There has been no coordinated strategy to provide preventive support services to decrease the number of referrals to special education, or to address the overrepresentation of children of color in certain disability categories, or segregated special education classes. There is still substantial non-compliance with student's IEPs, and the number of Impartial Hearing requests has actually increased. We still do not have an adequate system for maintaining and using data on the delivery of special education programs and services, although I am pleased to see that the DOE has just finalized a contract that we hope will rectify the data problem. Second, it is striking to me that the major reorganization of special education structures that was analyzed in that 2003 report, which was phase one of the Children First reforms, has already been replaced by another reorganization. The regional administrators for special education, who were put in place as a pillar of phase one to assure

accountability for special education services are now long gone. The organizational structure that supports special education has been wiped out and rebuilt twice in the past seven years, and it seems that Garth Harries has recently been appointed to engineer another structural overhaul. Reorganization can be a good thing. Nobody says that the special education system does not need improvement. But too many structural changes with too little of forethought have been highly disruptive and confusing to parents and teachers. Moreover, if the DOE is concentrating once again on rearranging the deck chairs, we believe they will continue to postpone a much-needed focus on instruction for students with disabilities. Without a renewed focus on instruction and what we need to change in that area, we do not believe that outcomes for students with disabilities will significantly improve from here. And just, I'd like to say a word before I conclude on the small high school issue, because there was a lot of conversation on it. I think if the Council is still looking at that issue, I would suggest that you look not just at the total number of kids with

1 disabilities in the small schools, but also  
2 whether the population of students with special  
3 needs in the small schools reflects the range of  
4 disabilities in the system as a whole, and also  
5 whether the students with disabilities who are in  
6 the small schools are actually getting the  
7 services and programs on their IEPs and that they  
8 need. So I want to thank you for this opportunity  
9 to speak to you today, and I would be happy to  
10 answer any questions you may have.

11  
12 CHAIRPERSON JACKSON: Next? Just  
13 identify yourself for the record.

14 LINDA OSTREICHER: My name is Linda  
15 Ostreicher and I'm the Director of Public Policy  
16 for the Center for the Independence of the  
17 Disabled of NY. We're a leading advocate for New  
18 Yorkers with all kinds of disabilities. And for  
19 30 years we've been working on breaking down  
20 social, physical and perceptual barriers that  
21 prevent people with disabilities from  
22 participating fully in mainstream life. We have  
23 one program that works with older children with  
24 disabilities to help them make a successful  
25 transition to life after high school, or rather to

try to help them make that transition. And the program exists because of the unacceptable results of the education system in New York for these children. These results often last a lifetime. And I'm here mainly to show the results of continuing as we've been going. Every day CIDNY counselors see adults who must live in deep poverty on welfare or supplemental security income for their whole adult lives. They do so because they never learned basic reading, writing and arithmetic skills since their disability related learning needs were never properly addressed. Many of them went through the special education system, fulfilled all the goals on their cookie-cutter IEPs and graduated with an IEP certificate. They then discovered the IEP is not a diploma and it's not accepted as such by employers, colleges, trade schools or even the armed forces. They also are not on track for a GED, because they don't read and write well enough to get one. They're not the focus of youth employment programs. Many are pushed to drop out of school, frustrated by the lack of meaningful assistance, having been taught to associate a devastating stigma with

1  
2 their disability. There's many reports advocating  
3 the recommendations for change. I'm not going to  
4 go into recommendations. In 2003 the New York  
5 City Council issued such a report and Kim has just  
6 referred to it. One of the most promising changes  
7 supported by advocates and the City Council in  
8 2003, was the expansion of classroom space for  
9 District 75 students in general education schools.  
10 Unfortunately, while this expansion happened, it  
11 produced a side effect. Turf disputes can occur  
12 when a District 75 classroom is housed within a  
13 general education school, because a general  
14 education principal has control of the physical  
15 school facility, and general education activities,  
16 he or she sometimes feels that the District 75  
17 students are not their responsibility, and they're  
18 not entitled to the same activities and the same  
19 access to resources as other children. Some  
20 principals, we've heard, feel that they can have  
21 the power to prevent children with disabilities  
22 from using school facilities like libraries and  
23 gyms, barring them from class trips or taking part  
24 in school performances. We've even heard of a  
25 high school senior with a disability who attended

her class graduation ceremony with her family there to share her success, but her name was never called and she never got to go up on stage to receive her diploma, and that's not the kind of lesson we want children to get out of school. We see a need for principals to understand that principal empowerment does not trump the ADA. The Americans with Disabilities Act, overrules any edict from the Department of Education. And there is never an excuse to categorically bar children in special ed from any activity or facility. It has to be individually decided for each child. These days the newspapers are full of the harm caused by people losing jobs and having their retirement savings disappear with the falling stock market. This is what life is like all the time for people with disabilities who don't get an adequate education in the special ed system. Our employment rate, and when I say our, I mean people with disabilities; in New York State was 34% before the recession began. That's our employment rate, that's not our unemployment rate then is 66%. We make up over half of the people in long-term poverty in the United State. A recession is

no excuse to continue to delay and deny their fair share of education to children in special ed.

This is the time for the DOE to take responsibility for preparing the next generation of New Yorkers with disabilities to read, write and multiply their way to success.

CHRISTOPHER TREIBER: Good afternoon. My name is Christopher Treiber and I'm the Director of Advocacy Services from AHRC, New York City and Co-Coordinator of Parents for Inclusive Education. Parents for Inclusive Education is a group of parents, educators and advocates working together to make inclusion a viable option for students with disabilities in New York City. I'm speaking here today on behalf of the parents of PIE and their children, and the testimony that I'm providing is based upon information the parents provided to us at citywide special education parent speak-outs that were co-sponsored by PIE and also the ARISE Coalition, and from input from parents who attended our meetings. Given my limited time I'm going to focus on just a few key areas. One of the major areas and concerns for PIE, I think basically what Linda was

1 talking about, is the issue of access. And PIE  
2 has worked very hard to ensure that there is full  
3 and equal access for students with disabilities to  
4 all the programs and services available within the  
5 schools, the same services that are offered to  
6 children without disabilities. One of the main  
7 objectives of the DOE's reorganization in 2003 was  
8 to basically create an environment where  
9 principals had autonomy to act. It gave them a  
10 tremendous amount of power. They also removed the  
11 special education supervisors from those settings.  
12 And the goal was to basically have principals be  
13 responsible for the kids in the schools, which is  
14 an admirable goal. However, the reality I think  
15 is that principals have taken a lot more authority  
16 to act and I think Linda basically outlined a lot  
17 of my points in terms of saying that children are  
18 being denied access to facilities within the  
19 building that principals decide they shouldn't be  
20 there. I had one parent who specifically told me  
21 that her child was not going to be allowed in the  
22 library because the principal said the child with  
23 Autism might rip the book. You know, those kinds  
24 of things are stories that we're hearing. The  
25

other really alarming one that we're hearing across the City is that more and more parents are being called and told that their child was sent to the hospital via 911 because the school couldn't handle their kids. We specifically heard those stories in the Bronx, and we've heard them in other areas. And all of these incidents I think point to a larger issue, which is that the autonomy of principals to act, and the inability of parents to hold them accountable. And with the removal of the special education supervisors, parents lost the one individual who was the expert at the school on special education, and in many cases the key advocate for students with disabilities in the school, and parents feel increasingly powerless and report that they do not know who to voice their concerns to. And we believe that the speak-outs was the first real opportunity that parents had to express their anger and frustration and that's why we had such large numbers in all the boroughs. PIE calls upon the Chancellor to make a clear and unequivocal statement that students with disabilities are to be given full and equal access to all the

facilities, programs and services offered to students with disabilities, and the practice of excluding students with disabilities is illegal and will not be tolerated. We also call for an immediate end to the practice utilized by some schools of calling 911 to deal with a child who is too difficult. The second issue, which has been discussed, you know, by some of the members is that there's an adversarial climate being developed. And parents are experiencing this more and more in terms of dealing with their child's specific school. The majority of parents seek a partnership with their son or daughter's school and they want to work collaboratively in the best interests of their children. However, parents report that any time a request is made for increased services or additional support; they're directed to file for an Impartial Hearing. This climate makes it very difficult for parents and advocates who try to negotiate in good faith, and settle disputes without a due process hearing. Councilwoman Katz had discussed the issue of appeals, and so I just want to explain some numbers. The report that I'm citing is from a

December 23rd memo from the New York State Education Department to VESID Committee of the Board of Regents. And it basically cites numbers. And the numbers say that in 2007-2008 there were 6,075 requests for Impartial Hearings in New York State. 90% of those hearing requests came from New York City. Based on those numbers, and then basically the other number that also is striking, is that there were only 746 actual hearings. So what that says is that most of the hearings were settled. And if you look at the New York City numbers, there were 5,467 Impartial Hearing requests in that year, 4,774 cases were settled. That means that only 693 actually went to hearing. Now that's a really good thing. However the question is, why does New York City have the most hearings in the State? They've always had the most hearings in the State. What is the dollar cost for each hearing filed and what is the cost relationship to the families? And the broader question, I think, is why are these cases not settled prior to the parent's request for a hearing, if in fact most of the cases was resolved after the initial hearing was made, but prior to

1 the full hearing? And this would indicate that  
2 what the parents requested in many cases was  
3 reasonable, otherwise the Department of Ed would  
4 have gone to a full hearing over it. The other  
5 area that I just want to mention, because a few  
6 people had talked about special ed reports, and  
7 this one is specifically related to the special  
8 education service delivery report that cited as  
9 this wonderful accountability measure that parents  
10 have. And it talks specifically in one case about  
11 mandated related services. And the Department of  
12 Ed has basically said that under this provision,  
13 most of the students are getting their full--  
14 their related mandated services. And based on the  
15 information that we get as advocates, that's  
16 really contradictory, because we hear most parents  
17 are not getting those services at all, or they're  
18 getting a part of the service. And the question  
19 that never has been answered is when they  
20 reference that specific statement about services,  
21 are they talking about children who are getting  
22 their full mandated services or are they only  
23 referencing a percentage of the service? And that  
24 answer will be very telling, because if it is only  
25

partial service, than really it's not reflecting the total lack of service to all the kids in the City. The last thing I want to mention is to tell you about a boy who's 12-years-old, and I've been working with him. He has cerebral palsy and he needs a wheelchair to travel. He attended a school in the Bronx in general education and his mother told me that he was not allowed to go and use the gym until his mother fought with the principal about it. He was not allowed to go on fieldtrips with the class unless she went on the trip and transported him herself because the school wouldn't get him a bus. His words are more eloquent than anything I can say, and speak to his experience attending school as a student with a disability in New York City. He writes: There are a total of 1,500 students in my school. Out of all these students, I am the only one in a wheelchair. Many times I am in school with my head down because there are no other kids in wheelchairs in my school. This makes me feel out of place. In my class there are 30 students. Although I like my teachers, the class size is very big and because of that I am not able to be

1  
2 part of the class. I also have to be kept away  
3 from everyone else because of lack of space. I am  
4 put on records as a member of a class, yet I don't  
5 feel included in everything that class involves.  
6 I think my school is nice, but I don't think it's  
7 a school designed for kids like me. I hope his  
8 words remind us that while we debate and argue  
9 about special education it is the children with  
10 disabilities and the families who love them who  
11 are suffering. We must get this right for the  
12 sake of our children. Thank you.

13 MAGGIE MOROFF: Good afternoon and  
14 thank you Chairman Jackson and to everyone else  
15 who is here this afternoon. I'm Maggie Moroff,  
16 I'm the coordinator of the ARISE Coalition.  
17 You've just heard from three of our members and  
18 you're going to hear from a few more as the day  
19 goes on. We're a group of parents, advocates and  
20 educators from around New York City who have come  
21 together to provide voice on behalf of students  
22 with special needs in New York City. We seek to  
23 compel systemic reform and to improve special  
24 education, promote greater transparency and  
25 accountability of the education system, and to

1 assure more positive outcomes for all students.

2 As you've just heard, ARISE and PIE sponsored a

3 series of speak-outs for parents and caregivers

4 this fall. And I'm going to talk about them. I'm

5 going to try not to repeat what you've just heard

6 from the last two, but to bolster some of the

7 points that they made. We've set those speak-outs

8 up for the parents and caregivers to give them a

9 chance to share their experiences with the special

10 education system during this administration. We

11 heard from many, and I'm sure that you will too.

12 Those that make it here today or made it to our

13 speak-outs have taken on the task of speaking out

14 for all the others who cannot. Together their

15 stories, we really believe, paint a picture of a

16 system with many problems still to resolve. At

17 our speak-outs parents told stories of their

18 children being left out of school-wide activities

19 and programs and of failing to progress. They

20 told of being treated as second-class citizens.

21 They described inexcusable segregation of youth

22 with special needs from their general education

23 peers. Their children were being left behind

24 while their general education peers made strides,

25

or that was the perception of the families.

Thankfully there was some hope expressed during those speak-outs as well, and positive stories about supportive, helpful individuals, administrators and teachers. That said, the stories that we heard in each borough were to some degree different, and in fact every story was unique. Still each of the families' sagas served to illustrate much larger systemic problems. The list of concerns that we heard that related to the entire system included, but was certainly not limited to, special education supports and services never received or insufficiently individualized to help the student's progress, inconsistent services for children as they advance to later grades, insufficient information about programs and resources for the students and their families, physical inaccessibility of buildings and hard-fought battles to get appropriate transportation services, something we already heard today as well. Many have put forth proposals for organizing and reorganizing special education. Consultants commissioned by the DOE and by outside groups have studied the system.

That includes the City Council's report that a few people have referenced and the Hehir Report that you referred to, Mr. Chairman. Their recommendations have focused on more flexible service delivery models, increased dissemination of meaningful disaggregated data and accountability, staff development and training, preventive and free referral services, and increased capacity at community schools as well as within the District 75 programs. This administration has reorganized twice now, and we're still facing the same underlying problems iterated in all of those prior reports. We urge the DOE at this point to heed the many calls for reform, past and present, and to assure this time that our children with special needs receive the same consideration, concern and attention as their peers in general education. Since another reorganization does seem inevitable at this point, the ARISE Coalition hopes the following goals will in fact be met this time. The DOE must immediately address the ongoing treatment of students with special needs as second-class citizens. The DOE must focus on the educational

1 experiences and outcome of the students with  
2 disabilities. All students must have equitable  
3 access to all facilities, the lunchrooms, the  
4 gyms, the libraries as you've just heard, and  
5 program activities, including after school  
6 activists. Every community school district must  
7 improve capacity to meet the needs of a variety of  
8 students with special needs in a variety of  
9 settings. There must be increased opportunities  
10 for interaction and integration of a greater  
11 number of students with special needs, and the  
12 Department should invest in pilot programming and  
13 replication of successful inclusion models. And  
14 lastly, there needs to be, as we've heard also,  
15 increased transparency of data. It needs to be  
16 disaggregated so that we really don't need to rely  
17 on the anecdotes on the already overwhelmed  
18 parents who have been such a wonderful voice.  
19 Finally, reform must be driven by instructional  
20 considerations and students outcomes and not by  
21 budgetary concerns alone. Thank you.

23 CHAIRPERSON JACKSON: Thank you.

24 Council Member Fidler?

25 COUNCIL MEMBER FIDLER: Thank you,

1  
2 Mr. Chairman. Mr. Treiber is it? Treiber? I'm  
3 sorry. I am very taken by the statistics that you  
4 presented to us regarding hearings and hearings  
5 that are settled. And I just wonder whether you  
6 care to speculate on how many people don't even  
7 file for the hearing because they're overwhelmed  
8 by the thought that the DOE has taken all the  
9 fight out of them already? So, you know, if there  
10 were 6,900 hearings in New York, how many people  
11 do you think didn't get the service they required  
12 because they just couldn't get it up to do the  
13 hearing?

14 CHRISTOPHER TREIBER: Honestly, I  
15 would probably say it's at least double that. I  
16 mean I think what's happened because of the  
17 complete autonomy of principals at the school  
18 level is that parents are left between a rock and  
19 a hard place. I mean what do you? If you don't  
20 like what the school is doing, what do you do?  
21 Are you going to take on the school? And even if  
22 you go to a hearing, you're going to have to have  
23 the teacher and the principal and possibly other  
24 people in an adversarial role responsible for your  
25 children. And I think that is a very chilling

1  
2 effect in terms of parents requesting hearings. I  
3 think a lot of them give up before they get to  
4 that point.

5 COUNCIL MEMBER FIDLER: I think  
6 that point is-- I'm going to ask the question and  
7 I think the answer is obvious and I agree with you  
8 completely and Mr. Chairman, I would ask that this  
9 Committee include whatever follow up we have with  
10 DOE that they respond exactly to this point and  
11 these questions that this witness has raised.  
12 What's the cost of a hearing? What's the cost of  
13 filing for a hearing that doesn't happen? Why  
14 can't they have a process by which there is  
15 intervention before an adversarial relationship  
16 has to be developed and how much money would they  
17 save by doing that and how much, you know, how  
18 much more compassionate would such a program be?  
19 I'd like to hear their response to that and that's  
20 why sometimes I'm sorry that DOE goes first and  
21 not last, because I think that's a question that  
22 needs to be asked.

23 CHRISTOPHER TREIBER: Could I add  
24 one more thing? The other thing that I think is  
25 happening as to why there's so many hearings is

1  
2 because most parents are told at an IEP meeting at  
3 the school that the staff don't have the authority  
4 to recommend anything. And that really is the  
5 fundamental issue. I think we need clarification  
6 regarding what can an IEP team recommend that's  
7 part of the continuum of services? And if they  
8 can't recommend certain things, are they really  
9 legally a constituted IEP team under law? And I  
10 think that answer will have a lot to do with what  
11 parents can ask for or request, because the pat  
12 answer they get all the time is, I'm sorry, we'd  
13 love to do that but go to a hearing, you'll get  
14 it. And the numbers reflect it, completely.

15 COUNCIL MEMBER FIDLER: I think  
16 that's a perfectly good question to add to my  
17 list, and you know, this is just unfortunately I  
18 think symptomatic of DOE and how they manage  
19 parents. Ms. Ostreicher, I was absolutely  
20 revolted, I can't think of a strong enough word  
21 to-- the student who went to graduation with their  
22 family and had to sit there is perhaps the  
23 cruelest example of all of the things that all  
24 four of you have been talking about. It is  
25 disgusting. And it is exactly the kind of bigotry

1  
2 that we're supposed to be teaching children not to  
3 have. And we see, in many of our communities when  
4 a group home is proposed on a block people come  
5 out and say they don't want it because they don't  
6 want to look at it. And it just nauseates me.  
7 And I'm just interested to know, if you know,  
8 whether or not a grievance was filed against that  
9 principal or some complaint was made about that  
10 principal. If so, what happened?

11 CHRISTOPHER TREIBER: Yeah, I know  
12 because I worked with the parent. And she did  
13 file complaints. She sent a huge amount of  
14 emails. And generally the answer she got was,  
15 well, it probably shouldn't have happened. But  
16 the reality was that this girl was there, with her  
17 mother and father and relatives, she was all  
18 dressed up to go to graduation. Her name was not  
19 on the graduation record. And the answer that we  
20 got from the Department of Ed basically was that  
21 well, she was within District 75 inclusion, and so  
22 therefore she wasn't on the roster of the school,  
23 and so they forgot to include her on the  
24 graduation list. That's exactly the answer we  
25 got.

COUNCIL MEMBER FIDLER: Well

incompetence is sometimes forgivable. Bigotry is not. And you know, I guess if their best defense is we were incompetent, then I guess we'll have to go with it. But I just-- it's things like that that just, they make me nuts. And I just, you know, I hope that if you're the vigilant eyes on this and this happens again on this principal's watch, you couldn't make a loud enough cry about it and I would love to know about it, regardless of whose district this school is in.

LINDA OSTREICHER: I'd just like to

add that leaving somebody off the list because they're in District 75 isn't just incompetence, it's the systematic not considering children in District 75 as full students in the school with full rights. And just, you know.

COUNCIL MEMBER JACKSON: Any quick

comment on-- have you all been briefed and or did you all hear about the proposed restructuring of special education? When did they brief you guys? Kim, any knowledge?

KIM SWEET: I mean I found out

about this from Philissa Cramer's blog. But

1  
2 afterwards was briefed by Marcia Lyles, who said  
3 pretty much what she said here today. And I told  
4 her we have very big concerns about this, just  
5 because, and this is really you know, I don't like  
6 to do personal attacks and I don't have anything  
7 against Garth Harries, but I think if you're going  
8 to really look at this system and overhaul it and  
9 you have somebody in charge who knows absolutely,  
10 not only nothing about this system, but nothing  
11 about special education in general. So it's not  
12 like he brings expertise from another system that  
13 he's going to share. I can't see what the purpose  
14 of this is, except to have somebody and to make  
15 cuts. Because-- and how are you going to make  
16 cuts intelligently if you don't really understand  
17 what all those things are there for in the first  
18 place. And as Councilwoman--

19 CHAIRPERSON JACKSON: [Interposing]  
20 The only thing they can cut is staff. Is that  
21 correct? Because the IEPS-- if they violate the  
22 IEPs, then they're going to be hiring more  
23 attorneys to be in court.

24 KIM SWEET: Yeah, they already have  
25 hired more attorneys. But I think, you know, what

1  
2 they say is that they're going to look at issues  
3 like placement, are there too many people doing  
4 the same thing, why aren't people getting their  
5 related services. But what it sounds to me like  
6 they're going to look for what they consider to be  
7 duplication of effort and trim.

8 CHAIRPERSON JACKSON: Can you  
9 respond to, we hear complaints from parents that  
10 there are not enough-- they call Advocates for  
11 Children and they can't get the services they need  
12 in a timely manner. Is it because you're swamped  
13 with the number of cases? And is that indicative  
14 of all of the advocacy groups? What's the deal?

15 KIM SWEET: I can answer for  
16 Advocates for Children and it's because we're  
17 swamped. The need for assistance, I mean as the  
18 number of hearings goes up, the needs for lawyers  
19 to go to those hearings with people goes up as  
20 well. And as you know, our funding was cut,  
21 unfortunately for our helpline. So, but I can--  
22 other people can speak to their own caseloads.

23 MAGGIE MOROFF: Our little program,  
24 one person to help children transition out of high  
25 school, children with disabilities, is very much

up for grabs. It's state funded and we've been told it may be ended in July.

CHRISTOPHER TREIBER: And my program at AHRC is myself and one other advocate. And this year we have had a tremendously large number of cases, way more than we've ever had before. But I think the one thing that complicates it more than ever before is the adversarial nature. We used to be able to at least get some reasonable person to be able to understand and at least negotiate or settle. This year I've gone to more hearings than I can tell you, and most times it's because someone wasn't even reasonable enough to consider something that we ended up getting at a hearing anyway.

CHAIRPERSON JACKSON: What's the average amount of time of a hearing; if you have to say, give me an average? How many hours? How many days? As someone who--

KIM SWEET: [Interposing] We're finding, I should just piggyback on what Chris said, we're actually taking fewer cases, our attorneys, because they're being harder fought and fewer of them are settling. So we're finding that

1  
2 when we take a case, now that case that was very  
3 likely to settle in the past is going to be a  
4 hearing. And some of our attorneys are going to  
5 hearings for two, three-day hearings. And then--

6 CHAIRPERSON JACKSON: [Interposing]  
7 I mean including the prep time.

8 KIM SWEET: Not including the prep  
9 time, for sitting there in the room. And then DOE  
10 has become much more aggressive on appeals. So  
11 we're winning the hearings and then they're filing  
12 a review with the State Review Office and we're  
13 having to put attorney time into that. And we're  
14 ultimately still winning, but we're putting a lot  
15 more time into each case, and so we're helping  
16 fewer people.

17 CHAIRPERSON JACKSON: I want to  
18 thank you all for coming in as advocates for  
19 children with special needs. Thanks. Next we'll  
20 hear from Lisa Isaacs, New York Lawyers for the  
21 Public Interest; Ellen McHugh, Parent to Parent  
22 New York State; Jean Mizutani, Resources for  
23 Children with Special Needs; and Liz Pardo from  
24 Sinergia; Raphael Rivas, BCID. What's that?

25 RAPHAEL RIVAS: Brooklyn Center for

Independence of the Disabled.

COUNCIL MEMBER JACKSON: Okay.

Come on. Okay, Lisa, you're first. Grab the mic.

LISA ISAACS: Good afternoon.

Thank you for giving me this opportunity to be here to speak with you.

CHAIRPERSON JACKSON: Thank you.

LISA ISAACS: I am the Director of the Educational Law Program at New York Lawyers for the Public Interest, who for almost 30 years have held the contract with the New York State Commission on the Quality of Care to provide legal and other protection and advocacy services for individuals with disabilities in New York City. We're also members of ARISE and PIE. I'd like to focus my comments today on concerns the changes in the DOE including the most recent series of reorganizations haven't lead to meaningful improvements for children with special education needs, and have in many ways, as we've heard all day today made it more difficult for parents and advocates with lines of responsibilities frequently shifting, with office being reassigned. A good example is the ISC/CSE division of labor,

1 which has confused all of us. We applaud the  
2 efforts of some of the high-ranking special  
3 education professionals to try to create systems  
4 of transparency, though we think its more frequent  
5 that special education is neglected. Services are  
6 unavailable. Children are overlooked and the  
7 program itself is derided as a financial drain.  
8 We continue to hear stories of children spending  
9 hours on buses to get to school in their own  
10 neighborhoods and of students with severe  
11 disabilities being left on buses all day long,  
12 forgotten. We've heard about medically fragile  
13 children forced to stay home because medically  
14 trained personnel are not available for  
15 transportation, and in the classroom. We've heard  
16 about the handcuffing of very young children who  
17 are transferred to hospital emergency rooms for  
18 psychiatric workup. Finally we hear about  
19 principals excluding parents from classrooms and  
20 the school building if they question an aspect of  
21 their child's education or their physical  
22 condition when they return home from school.  
23 Complaints of neglect by school personnel are  
24 routine in our office, as are unchecked bullying  
25

and harassment by peers. Parents express fear and frustration over the Department of Education's own Office of Special Investigations, which seems to operate in secret, giving advocates and parents the impression that the goal of the investigation is cover up and not to uncover acts of neglect and even abuse in schools, in which imperious principals have the heaviest hands. The reorganization has only exacerbated some of the worst problems by endowing principals with discretion to address school-based problems while at the same time administratively scrutinizing schools on performance measures, creating a skewed system of accountability that militates against corrective action. In our office we receive dozens of calls every month. I'd like to give you a snapshot of the active cases we opened last year. In 2008, we helped 332 children and their families with more than brief services. That's about half of the calls we receive directly on special education problems, and we suspect that that other half, was fed up and scared by the system. I don't believe that we could resolve their problems with the brief service that we

provided. Parents called primarily for assistance with the following issues: implementation or compliance with IEPs, or that the IEPs were inappropriate; they wanted to obtain least restrictive settings or they had other placement issues; they could not obtain related services; there were no available reliable safe transportation options. I do want to point out that only 12 of the cases that we opened last year were for tuition reimbursement, though a couple of cases in addition to those 12 did become private school cases. There are some strong themes among our clients. Parents were told by school personnel that if they disagreed or had problems with the proposed IEP recommendations or school programs, they should file for Impartial Hearings. The IEP process should be collaborative with full parent participation. Instead, parents report no one at the school has tried to explained to parents how their problems could be resolved without going to hearing. Parents often experience a dismissive attitude, which has made it very difficult for them to trust the school to do right by their children. Evaluations are slow

and inadequate. Parents are not being informed about what services their children are receiving. Related service providers, even when they're offered, are difficult to find. A good number of families are forced to obtain private evaluations just to get a clear picture of their children's educational problems, either because the DOE tells them evaluations are not needed or provides inadequate reports from school personnel. Some parents report never obtaining a reevaluation, notwithstanding the law that says that children should be evaluated routinely. Another concern is the lack of easy access to language services. Many clients are foreign language speakers and report never receiving a single document in their preferred language. One client reported that a teacher used a 12-year-old child from her daughter's own class as an interpreter to talk about her child's lack of educational process. A Polish-English bilingual child with severe language processing disorder is right now sitting in a Spanish-English bilingual class, which is often conducted in Spanish. These are but a few examples of a system that has yet to refine its

1  
2 structure to favor the well-trained caring  
3 professionals in the ranks of the DOE. We have  
4 seen improvements in the call center, in the  
5 standard operating procedure, perhaps. But these  
6 are minor in comparison to the alarming number of  
7 problems faced by children we know to be poorly  
8 served by the DOE. In closing we hope that the  
9 DOE will focus on true reform. We recommend  
10 special attention to staff training to facilitate  
11 true collaboration between teachers and parents,  
12 monitoring and oversight of schools and its  
13 leaders, increased attention to skills development  
14 for teachers and Para Professionals, and seamless  
15 transitions between placements, especially in  
16 those transitional years going into kindergarten  
17 and then again into high school. Thank you for  
18 considering my comments.

19 COUNCIL MEMBER JACKSON: Thank you.  
20 Next please. I'm just going to ask-- I mentioned  
21 it earlier, sorry. I don't have anyone on the  
22 clock, so if you could just not read your  
23 statements; or summarize, especially with the  
24 points that, you know-- and if you have any, I  
25 guess, response to anything the DOE has said,

whether or true or not true, I'd really like to hear that. Because these statements are pretty clear on the record, which will be considered. So go ahead. Introduce yourself and you may begin, please.

JEAN MIZUTANI: Thank you. My name is Jean Mizutani. I'm from Resources for Children with Special Needs.

CHAIRPERSON JACKSON: Okay, Jean could you pull your mic up a little closer so it's a little louder.

JEAN MIZUTANI: Okay, is this fine?

CHAIRPERSON JACKSON: Yeah, a little bit.

JEAN MIZUTANI: Can you hear me now? I can't tell if you can or not.

CHAIRPERSON JACKSON: Yes, I can.

JEAN MIZUTANI: Earlier--

CHAIRPERSON JACKSON: [Interposing]  
But I want to make sure everyone else in the room hears you loud and clear too.

JEAN MIZUTANI: Thank you. Earlier you talked about unintended consequences and there is a big one that keeps coming up over and over

1 today, and that would really be the inappropriate  
2 reliance on due process to resolve disputes. You  
3 saw a perfect example of that when Councilwoman  
4 Katz was trying to ask what a parent could do in  
5 the event there was disagreement. And Linda  
6 Wernikoff immediately said, you can claim  
7 pendency, you can go to hearing. Now the  
8 Department of Education is extremely happy to say  
9 that many of these hearings are resolved at the  
10 resolution session and that a hearing is not  
11 necessary. They're very proud that some parents go  
12 to mediation and there are agreements, but the  
13 bottom line is this is all part of the due process  
14 procedure and it shouldn't be necessary. It was  
15 past reorganizations, Mayoral reorganizations,  
16 which took away the people on multiple levels in  
17 different areas that parents could go to. Now,  
18 because you have the principal in complete power,  
19 everyone has the same boss. Everyone is on the  
20 same team, and you cannot get a single person to  
21 stop and say let's look at this with a fresh  
22 perspective, you may not have to utilize due  
23 process, even if it is the touchy-feely mediation  
24 or resolution session; it's all due process. So  
25

1

2       whether--

3

CHAIRPERSON JACKSON: [Interposing]

4

And with all that due process--

5

JEAN MIZUTANI: [Interposing] Yes.

6

CHAIRPERSON JACKSON: The student

7

is not getting the services.

8

JEAN MIZUTANI: That is right.

9

CHAIRPERSON JACKSON: That's the

10

bottom line.

11

JEAN MIZUTANI: That is the bottom

12

line. And further, whether they reorganize again

13

or not, I mean the same problem will persist

14

unless the schools are given the focus of trying

15

to resolve disputes on the school level

16

collaboratively. Thank you.

17

CHAIRPERSON JACKSON: Thank you.

18

Next?

19

ELLEN MCHUGH: My name is Ellen

20

McHugh. I'm currently the Appointee, the Public

21

Advocate Appointee to the CCSE and the Associate

22

Director of Parent to Parent New York State.

23

We're a member of PIE and ARISE. My favorite PIE

24

being apple.

25

CHAIRPERSON JACKSON: Mine too.

1  
2 ELLEN MCHUGH: This system has  
3 never been examined so much since someone looked  
4 at the first Playboy centerfold. I don't  
5 understand. We have had five reports in four and  
6 a half years, and now we have somebody who is  
7 going to be the person who is going to be the  
8 arbiter of these reports. I don't think his title  
9 should be leader. His title is referee. There is  
10 a fight in the special education community about  
11 how services should be delivered in Board of  
12 Education programs. And the fight is who wins and  
13 who runs special education. That's what the fight  
14 is about. It's not about how to serve kids. It's  
15 an adult issue based on adult--

16 CHAIRPERSON JACKSON: [Interposing]  
17 Is it about money also?

18 ELLEN MCHUGH: No. It's about  
19 adult on who's right and who's wrong--

20 CHAIRPERSON JACKSON: [Interposing]  
21 All right.

22 ELLEN MCHUGH: And which way it  
23 should be served. Kids have to be served in a  
24 variety of programs, that's what the IDEA says,  
25 that's what the State says, that's what the City's

continuum of services requires. The issue then becomes where is the LRE. The LRE is the first place the kid is supposed to be put--

CHAIRPERSON JACKSON: [Interposing]  
I'm sorry, what's LRE?

ELLEN MCHUGH: Least Restrictive Environment.

CHAIRPERSON JACKSON: Okay.

ELLEN MCHUGH: That's your first place. There's nothing in the law about going from least restrictive environment to most restrictive or vice versa.

CHAIRPERSON JACKSON: Okay.

ELLEN MCHUGH: The first attempt is supposed to be the right attempt. Granted, it takes some of us the right time to find a marriage partner, or to find a shoe to fit, but you're talking about kids. So the actual effort to be made requires a lot of training on the part of the team. The teams do not get that kind of support. They know what goes on in their school and quite possibly in the school next door, but are not jacks of all trades. They don't know everything and they are not then given the opportunity to

1 know everything. They are confined to their  
2 schools. The issue about the psychologists also  
3 comes down to how you're carried on a register.  
4 Them, I don't know what the number of  
5 psychologists are. But many psychologists are  
6 split in two and three schools, we're not even  
7 talking about campus schools, we're talking about  
8 PS 102 in Brooklyn in District 20, PS 185 and PS  
9 104. So they're each carried as a psychologist on  
10 that team, but they're split with three schools.  
11 It's a whole other ball of wax with people. The  
12 other three points are, the call center was not  
13 implemented for parents, but was created for staff  
14 so that they could call in to ask questions.  
15 Parents inadvertently found out about the call  
16 center. They are not allowed to have the call  
17 center's phone number. You must call 311, you  
18 cannot call the call center. So you--

19  
20 CHAIRPERSON JACKSON: [Interposing]

21 Are parents calling it though?

22 ELLEN MCHUGH: Yes, but you're told  
23 to call 311?

24 CHAIRPERSON JACKSON: 311 knows  
25 nothing.

ELLEN MCHUGH: 311 knows everything. You haven't swallowed the Kool-Aid, which is why I never drink coffee in the DOE.

CHAIRPERSON JACKSON: Oh, okay. All right.

[Laughter]

ELLEN MCHUGH: Private evaluations are often dismissed at the school levels. Parents are told, we don't care what you bring here, we have ours. The other issue about the bussing, I don't know if it's because we started out with one or not, but we have become a call center, Parent to Parent, for parents who have kids with bussing issues. The latest one is a young lady, she's six years old, she had had a series of 130 seizures in a four-week period. The child was out of school and on home instruction. They live in a two-family house. The parents own the house, out in East Flatbush. There are nine steps to get from the second floor to the first floor. The father is a construction worker who leaves at 7:30. The mother is a secretary in a local organization, who leaves at 8:30 so she can be there for the child. The mother can't get the child down the stairs.

The child weighs about 98 lbs. The wheelchair weights, oh, I don't 60 more or less with all the equipment. In the new SOPM, the Board of Education has put in this codicil, children who are in public housing, because they didn't get their housing by choice, they were placed there, who use wheelchairs, will be allowed to have porter service, carry-kid service, however they describe it; which means two men or two women will go upstairs and carry the child down. But if you live in a private house they will not give you that option. So when I said, god willing, I didn't move into the private house to give this guy a job so he could be a porter service what do I do? They said to me, tough. Well, they were a lot less kind than that. Tough. So we had to go through every machination-- I mean I stood on my head and at my age that ain't funny. So we carried on like two year olds, stomped our feet. It was as if I was a 15-year-old with entitlement issues. And it was the only way to get this done. The parents were told; get modifications to your house. That's a possibility, but it's money and it takes weeks. The parents were told, if we do

1 that for you we have to do it for everybody else.  
2 I don't know how many children there are in this  
3 city who have wheelchairs that live above the  
4 second floor, but there ain't a hell of a lot, and  
5 I don't know why it can't be done on a case-by-  
6 case basis. The parents were told that you get  
7 the kid out other times, why can't you get the kid  
8 out now. It's this kind of back and forth that  
9 intimidates the parents. And these parents were  
10 not English speakers, nor were they born in this  
11 country. The child was. And they were absolutely  
12 panic stricken. It's a good thing I'm a big girl,  
13 because they were hiding like there was no  
14 tomorrow. But this was an issue, and this is what  
15 it comes down to, the lack of training on the part  
16 of the team at the school level, and the lack of  
17 understanding about what access is, whether it's  
18 just access to get in the front door or access to  
19 an educational program that will bring the child  
20 through college.

22 CHAIRPERSON JACKSON: Thank you.  
23 Next please? Elizabeth, that's your mic, right  
24 there.

25 LIZABETH PARDO: Thanks. I'm an

1 Attorney at Synergia at the Metropolitan Center  
2 and we are a member of ARISE and I want to thank  
3 you for holding this hearing. I had invited a  
4 parent here today, unfortunately she didn't make  
5 it. Her story so very well exemplifies what we  
6 have talked about here today, and so I'll just  
7 very briefly discuss what that situation is about.  
8 It's a girl with mild mental retardation. She's a  
9 high school student. She's a beautiful student.  
10 She's also, because she's mild mental retardation,  
11 she's also very naive. She's in a 12:1:1 program,  
12 it's called Basic II in a community school. There  
13 are very few of these programs, and because they  
14 are in a community school they are less  
15 segregated, or the child is in a less segregated  
16 environment. She has-- as I said, she's a very  
17 attractive girl. So very naturally, this is a  
18 high school student, she's in an environment with  
19 high school male students, and they are very  
20 attracted to her. So the school says that this  
21 girl is a liability to them and I have tried to  
22 speak to the school telling them we can-- you  
23 know, I don't know that this girl is, knows about,  
24 you know, proper social skills. But those are  
25

1 things that can be taught, and those boys can be  
2 taught. The school has dismissed this and  
3 recommended a District 75 for this girl. And we  
4 had recommended mediation. They accepted  
5 mediation, but failed to appear, and only the ISC  
6 representative appeared. We agreed that a  
7 functional behavior assessment would be done, and  
8 if there was already one that it would be amended.  
9 When the school got this they said there's already  
10 an FBA.

11  
12 CHAIRPERSON JACKSON: There's  
13 already a what?

14 LIZABETH PARDO: There's already--  
15 a functional behavior assessment would look at the  
16 behavior they would see is this child--

17 CHAIRPERSON JACKSON: [Interposing]  
18 Right.

19 LIZABETH PARDO: You know, does she  
20 need some educating, some training? Do the boys  
21 perhaps? It would look at the situation and there  
22 would be a Behavior Intervention Plan based on  
23 this assessment. They didn't do this. So the  
24 child and the mother undergo pressure every day.  
25 She's not allowed to go to the restroom. So she's

1

2       urinated in her pants.

3

CHAIRPERSON JACKSON: Oh, no.

4

5       LIZABETH PARDO: She's not allowed  
6       to go on field trips. They accused her-- her  
7       classmates were talking about a supposed incident,  
8       they were in fact talking about something in the  
9       past, that child was harassed and made to believe  
10      that she was involved in a very new incident. We  
11      asked the school if they investigated-- we asked  
12      them to investigate. They investigated and there  
13      was any new incident. Unfortunately that parent  
14      couldn't be here today. I asked her to come  
15      because as I said, it so well exemplifies what is  
16      happening in the schools, that the schools as we  
17      head, it's a take it or leave it. And I--

17

CHAIRPERSON JACKSON: [Interposing]

18

19

20

21

So where are you at in the case? Are you going to  
a hearing or something? Who is going to be the  
final arbiter since they refuse to go to  
mediation? What's your game plan?

22

23

24

25

LIZABETH PARDO: The parent has  
said, I cannot endure this any longer. Whereas in  
the past she said the schools that they offered  
they were too far, or they were too depressing or

1 too segregated or so on. She's so desperate that  
2 she's considering the District 75 placement. I  
3 think this Councilperson here said about the ELL,  
4 there's something wrong with-- it sounds, the  
5 Department of Education has been able to say that  
6 their policy is not discriminatory, but there's  
7 something wrong with it--

8  
9 CHAIRPERSON JACKSON: [Interposing]  
10 They said there was about 14.5%, which is  
11 basically about the same amount of--

12 LIZABETH PARDO: [Interposing] But  
13 my point is there's something wrong with this  
14 system. The LEAs have responsibilities to  
15 implement and to enforce IDEA and they don't have  
16 that power under this restructuring. And that's  
17 all I have. Thank you very much.

18 CHAIRPERSON JACKSON: Thank you.  
19 Next please?

20 RAPHAEL RIVAS: Good afternoon.  
21 Thank you very much, Chairman Jackson for allowing  
22 me to speak today. You may notice that I don't  
23 have notes in front of me--

24 CHAIRPERSON JACKSON: [Interposing]  
25 Just identify yourself, please.

RAPHAEL RIVAS: Yes. My name is Raphael Rivas. I am the Youth in Transition Coordinator for the Brooklyn Center for Independence of the Disabled, or BCID for short. I not only come here today as an advocate for youth with disabilities and parents for youth with disabilities, I come to you today as somebody who has been through the special education system, having an IEP, having to go to a non-public school, having family having to go to an Impartial Hearing to get me into a non-public school because I could not get services in a public school. Fortunately I had the drive to become successful and stand where I am today. There are a lot of problems that I see with the Department of Education. I attribute two of its problems to be twofold. There is basically no enforcement. Principals are basically allowed to take students on or not take them on based on the fact that they may have a disability or we don't accept people with that disability. And the parents are often left not knowing where to go. And that's the other problem. Not knowing the right information, there are many parents out there that feel left

1 out in the cold and out in the dark because they  
2 don't know where to go. They don't know that they  
3 can choose other channels, like the District's  
4 offices to find out and resolve their problems.  
5 They don't know that there are agencies out there,  
6 advocates out there that are willing to assist  
7 them. Many parents often don't know what  
8 everything on the child's IEP means. I had a  
9 parent who did not know that their child was being  
10 geared towards an IEP diploma, and did not know  
11 that he was being geared to that because he was  
12 set to take the New York State alternate  
13 assessments instead of the standardized RCTs or  
14 Regents. I have had parents not understanding why  
15 the child's disability classification is different  
16 from what the child's actual disability is. They  
17 feel that they go to outside assessments and get  
18 evaluations and then when it's rejected, they're  
19 left shocked as to why that is. I have a parent  
20 that I'm currently working with that is frustrated  
21 that their child is in a school that doesn't know  
22 how to properly handle their kid with his type of  
23 disability. And she had to request an EPC  
24 conference to try to get that resolved.  
25

1  
2 Fortunately she found me to be able to resolve  
3 that. There are many parents that don't realize  
4 that their kids are going towards IEP diplomas.

5 CHAIRPERSON JACKSON: What's an EPC  
6 conference?

7 RAPHAEL RIVAS: It's Educational  
8 Planning Conference.

9 CHAIRPERSON JACKSON: Okay.

10 RAPHAEL RIVAS: And they don't know  
11 that their kids are not going to be able to be  
12 successful past high school. I run a youth in  
13 transition program for high school youth with  
14 disabilities in the borough of Brooklyn. Many of  
15 my students are leaving school before the age of  
16 21 with IEP diplomas. And the only thing that  
17 that can get you into is VESID, which is the  
18 Vocational Educational Services for Individuals  
19 with Disabilities.

20 CHAIRPERSON JACKSON: That's a  
21 State agency.

22 RAPHAEL RIVAS: That is correct.  
23 That is the State vocational rehabilitation  
24 agency. And many of them are going through the  
25 VESID process, and it's taking so long that they

1 don't have the patience to live through it. So a  
2 lot of these students are not able to go to  
3 college. They're not able to get competitive  
4 jobs. Basically, they're in limbo of what they're  
5 going to do with their future. So what needs to  
6 be done is these kids need to be geared towards  
7 local diplomas, at least, and they can do that,  
8 because you have the right to stay in school until  
9 the age of 21. That basically gives you around  
10 seven years to complete what you need with the  
11 services provided and required on the IEP to be  
12 able to obtain a regular high school diploma.  
13 People that wind up with these local diplomas,  
14 they wind up sitting home, doing nothing, at best  
15 collecting SSI benefits and not knowing what their  
16 future is and not being able to live a successful  
17 career. What we need to do is we need to make  
18 sure that these students have the tools to be able  
19 to obtain a regular high school diploma and be  
20 able to move on to either employment or college so  
21 that they can fulfill their dreams what they want  
22 to be and have a successful career. Thank you  
23 very much for allowing me to speak.

24  
25 CHAIRPERSON JACKSON: Well let me

1  
2 thank you all for coming in. I mean when you talk  
3 about, I remember when I was in elementary school  
4 and I went to PS 186 in Hamilton Heights, and I  
5 was in the special education class. I don't even  
6 know if I had an IEP at that time, but I know that  
7 I was in this classroom with, I can clearly  
8 visualize the students that had physical  
9 disabilities and what have you and so forth. I  
10 didn't have a physical disability. I know I was  
11 hit by a car when I was about four years old and I  
12 was in a coma for about two weeks and all I know I  
13 was in this classroom with the same kids, every  
14 single year. Same classroom, same location for  
15 about three or four years. And when I was in the  
16 fourth grade they moved me out of that class to a  
17 regular classroom setting at PS 186 at Hamilton  
18 Heights, so that I remember very clearly and I  
19 don't think my mother was very involved as an  
20 involved parent in education at that time, so I  
21 don't remember if I had an IEP or not, but I know  
22 I was in that classroom with those same kids every  
23 single year for a couple of years. So, and  
24 somehow they moved me out of that to a normal  
25 classroom. So, anyway, and also I've had the

1  
2 experience of going through VESID, not with  
3 myself, with my brother-in-law, we brought him  
4 here when he was 19. He has retinitis pigmentosa,  
5 so he was blind, not totally blind, at the time.  
6 And I think he vanished maybe third or fourth  
7 grade in Tanzania, and subsequently got his GED,  
8 Associate's Degree, Bachelor Degree and graduate  
9 degree. He's a licensed social worker now. So,  
10 and we had to go through VESID for all of his  
11 programs and what have you and so forth, and  
12 through the Commission for the Blind and Visually  
13 Handicapped and so forth and so on. Anyway, thank  
14 you all for coming in.

15 ELLEN MCHUGH: I just want to say  
16 one thing--

17 [Off Mic]

18 ELLEN MCHUGH: There are some  
19 decent programs, and there are some excellent  
20 programs, the issue being that it's elective on  
21 the part of the leadership at the school.

22 CHAIRPERSON JACKSON: Right.

23 ELLEN MCHUGH: So even though you  
24 have one down the block that's really dynamite--

25 CHAIRPERSON JACKSON: [Interposing]

1  
2 Right.

3 ELLEN MCHUGH: And no one seems to  
4 say to principals, hey guys, look up; ladies, look  
5 up, look around.

6 CHAIRPERSON JACKSON: Right.

7 ELLEN MCHUGH: And that's the hard  
8 part, because the fight is so fierce, and then  
9 when you get in to something that works, you  
10 wonder why in heaven's name couldn't this have  
11 been easier.

12 CHAIRPERSON JACKSON: Maria Garcia,  
13 Parents of Blind Children of New York; Milton  
14 Williams, Parents of Blind Children of New York;  
15 Rachelle Jean-Baptiste, Parents of Blind Children  
16 of New York; and Patricia Connelly, Citywide  
17 Council on Special Education. Please come  
18 forward. And Maria Garcia is my constituent.

19 MARIA GARCIA: Yes, so is my Parent  
20 Group.

21 CHAIRPERSON JACKSON: So is who?

22 MARIA GARCIA: The Blind Children  
23 of New York.

24 CHAIRPERSON JACKSON: Oh, okay.

25 MARIA GARCIA: It's also in your

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district.

CHAIRPERSON JACKSON: Excellent.

Okay, Maria Garcia.

MARIA GARCIA: Yes. Well actually the way that ended was sort of a natural lead in for us.

CHAIRPERSON JACKSON: I know.

MARIA GARCIA: I am the President of the Parents with Blind Children of New York. I also actually am the Governor's Appointee to the Executive Board of the Citywide Council-- the Commission for the Blind and Visually Handicapped.

CHAIRPERSON JACKSON: Oh, with CBVH. Very good.

MARIA GARCIA: Yeah.

CHAIRPERSON JACKSON: Excellent.

MARIA GARCIA: We wanted to talk about, the Board of Education in generally certainly, but very specifically about the education or lack of same for blind and visually impaired students. I have with me two young people who both were educated through the school system some time ago who will be able to speak anecdotally about what was happening then and what

1  
2 is happening now and the changes and how we think  
3 they will affect students. I think that everyone  
4 here-- first of all, thank you for inviting us to  
5 come and speak. And I think that everyone here  
6 will agree that the success of an educational  
7 program is not judged based on standardized test  
8 scores as much as what happens after graduation.  
9 Are people finding jobs? Are they going on to  
10 higher education, etcetera? For the blind  
11 population success depends on literacy, I guess as  
12 in any other group. And literacy for the blind  
13 almost always means Braille. I wanted to share  
14 with you some statistics about Braille and Braille  
15 literacy very briefly. In 1993, the most recent  
16 stats I have though these have not changed,  
17 they're still ten or just under ten percent, and  
18 these are true nationwide as well as within the  
19 Department of Education. Ten percent of students  
20 in the Department of Education are learning  
21 Braille. In 1983, 15% were learning Braille  
22 nationwide. IN 1973, 28% were learning Braille  
23 nationwide, and in 1963, 57% were learning Braille  
24 nationwide.

25 CHAIRPERSON JACKSON: Percent of

1  
2 what?

3 MARIA GARCIA: Of students.

4 CHAIRPERSON JACKSON: Overall? Or  
5 just blind students.

6 MARIA GARCIA: Blind students,  
7 learning Braille.

8 CHAIRPERSON JACKSON: I needed  
9 clarification, that's all.

10 MARIA GARCIA: We're looking at  
11 Braille literacy rates. The blind community today  
12 has an unemployment rate of between 70 and 75%.  
13 Of the 35% that are employed, 90% are Braille  
14 users, so we cannot underscore the importance of  
15 Braille enough. Braille education in the  
16 Department of Education unfortunately, generally  
17 for children who have some vision, and that is the  
18 vast majority of the blind population, it's only a  
19 very small percentage of students that have no  
20 vision at all-- so students that have some degree  
21 of vision are almost always placed on a large  
22 print track. There are a number of reasons for  
23 this. It's certainly much less expensive, and  
24 it's much easier. Most teachers of the visually  
25 impaired, that's a specialized educator that is

almost always working with a blind or visually impaired student, have one, maybe two semesters of Braille as part of their education. So they often lose the skill fairly quickly, and it's easier for them to teach students in print. What we have had historically in the Department of Education have been classrooms with resource rooms. Milton and Jean will speak to you about that, Rachelle will speak to you about that in a little while, because they experienced that. That was their education. Currently the Department of Education has been closing what we call self-contained classes. As much as the self-contained model is not always the least restrictive environment, for blind students it is extremely important that in early education they have access to all of the foundational skills that are necessary to be academically successful. And it really is a completely different skill set than in almost any other disability group. So a self-contained class for a blind student who might not be able to succeed in a large general education environment with a TVI coming in once, twice, maybe three times a week to teach them to read, because that's just not how anyone reads.

You need much more intensive training to do that. So in this population, we feel that a self-contained class is not always a bad option. The Department of Education has been eliminating systematically all self-contained classes for blind and visually impaired students. They began first by eliminating the very younger students' classes, which sort of was counter intuitive. You would think that that would be the class that you would want to keep and then start to move children into a more inclusive, less restrictive environment as their skill set improved. What they did was the opposite. They closed all the kindergarten through second grade classes, and then because of lack of-- because of attrition, were able to close all the classes above that. There is currently one surviving class in Manhattan that is going to be closed at the end of this year when my daughter graduates from it, and that's the only reason they kept it open. There is I think one in Brooklyn, Milton? Is that right? One in Brooklyn, one in Queens; Staten Island lost their classes some time ago. And there is one classroom that is for sixth, seventh

1  
2 and eighth graders in the Bronx, and there's  
3 nothing in high school. What we would like to  
4 propose, and I'm going to hand some stuff in to  
5 you, this is just a recommendation that I have.  
6 It's something that I think would be a really  
7 wonderful CTT model that was based on a Vision of  
8 Blindness Model, so that you would have basically  
9 the resource room which would have computers and  
10 Braille and Braille technology, Braille writers  
11 and note takers; environmental Braille, which are  
12 calendars in Braille and other magazines and books  
13 in the room in Braille as well as-- so you would  
14 have this collaborative team teaching model where  
15 the second teacher, rather than the Special Ed  
16 teacher is actually a TVI. And classes, seats  
17 would be given preferentially to blind students.

18 CHAIRPERSON JACKSON: TVI is  
19 teachers of?

20 MARIA GARCIA: Teacher of the  
21 Visually Impaired. We also recommend strongly  
22 that a learning media assessment be incorporated  
23 into the assessment process for blind students,  
24 which currently does not happen. Blind students,  
25 most of them, come from a preschool where-- one of

1 the specialized preschools in the City, there's  
2 the Lighthouse, the Jewish Guild for the Blind,  
3 Helen Keller. My daughter for example went to the  
4 Lighthouse. And because she had enough vision,  
5 they didn't think that she needed to learn print  
6 immediately-- rather Braille immediately. They  
7 told me that she would learn Braille when she got  
8 to the Department of Education, when she turned  
9 five. When we got to the DOE they told us that  
10 since she wasn't already on a Braille track she  
11 probably didn't need it. You know, it's that kind  
12 of catch 22 that a lot of parents find themselves  
13 in. And because it's a fairly low incidence  
14 disability, parents generally are being advised by  
15 professionals within the educational system and  
16 those professionals only. They don't have access  
17 to a lot of other voices. I was fortunate enough  
18 to find an organization that advocates for the  
19 blind, and as a result I was able to advocate for  
20 my own daughter and to get better services for  
21 her. And in finishing up I just want to list to  
22 you a couple of things that I am dealing with,  
23 with my own child. We have a bussing issue. She  
24 has a medical doctor's not that is current  
25

1  
2 attached to her IEP that says she shouldn't be  
3 bussed for more than one hour each way. She's  
4 currently spending an hour and a half to two hours  
5 on a bus each way. It's been addressed by the  
6 Superintendent and I've put calls in to Richie  
7 Scarpa, who runs OPT, and the route has not been  
8 changed. Her physical therapy and occupational  
9 therapy have been RSA'd out, because they don't  
10 have enough therapists in the building to provide  
11 the service. And because my daughter is in a  
12 self-contained class--

13 CHAIRPERSON JACKSON: [Interposing]  
14 What is RSA out?

15 MARIA GARCIA: It's a Related  
16 Service Assignment. And it means that I can take  
17 that contract will find a service provider. The  
18 Department of Education pays for it.

19 CHAIRPERSON JACKSON: Pays for it,  
20 okay.

21 MARIA GARCIA: But it means that a  
22 single parent, now I have to find the facility. I  
23 have to be able to take my daughter there three  
24 times a week, get her home there three times a  
25 week. It's fairly untenable. And that's if I can

1 find a provider or a facility, and that's been  
2 part of the problem. Since we can't do the take  
3 someone there, since it's not logistically  
4 possible, I've been trying to find a PT and an OT  
5 to come to the home and have been very  
6 unsuccessful. And the DOE's attitude is, well,  
7 you know, not our problem anymore, even though  
8 it's a mandate on her IEP. They have been-- my  
9 daughter is about to transition into middle school  
10 and she, like almost every other student in her  
11 class that we know of, has been encouraged to go  
12 to the New York Institute, which is a private  
13 facility in the Bronx. We are starting to expect  
14 that public education for the blind in New York  
15 City will cease to exist, that children and  
16 parents are being very strongly motivated to not  
17 look within the City for these services. They  
18 don't want to provide it. It costs them too much  
19 money and too much expertise and it's easier for  
20 them to just farm us out. The last two pieces of  
21 this, last year apparently she failed her  
22 standardized tests, and that's how we kept her in  
23 the school another year. And then they told me  
24 miraculously about six months ago that there was a  
25

1  
2 mistake and she apparently passed. I thought that  
3 was interesting. We've been trying to get some  
4 technology; can't get it. We can't get JAWS; by  
5 the way, it's a speech program that should be on  
6 her computer at home. The Department of Education  
7 says, oh yeah, we'll give it to her, we'll give it  
8 to her and then they never do. The Commission for  
9 the Blind and Visually Handicapped says the same  
10 thing. It's kind of interesting. She's actually-  
11 - the self-contained classroom that she is in is  
12 actually a classroom designed for blind and  
13 visually impaired students with additional  
14 disabilities, specifically learning disabilities.  
15 And her teacher has no background in learning  
16 disabilities, does not know how to assess them,  
17 diagnose them or remediate them. They have tried  
18 to place her on modified promotional criteria so  
19 the fact that she may struggle with these tests  
20 because they haven't given her the literacy skills  
21 to take them will not keep her from passing, which  
22 is, you know when kids get left back principals  
23 get upset. You know, when kids fail tests,  
24 principals get upset. And the other thing is that  
25 she was initially classified as multiply disabled

as opposed to visually impaired, which removed her from the numbers counted for blind and visually impaired kids in the system. And it's a numbers game that they play. So those are just some things I wanted to throw out there that we've dealt with, and that I'm still dealing with. And I cannot imagine what parents who don't speak English, who may not be legal, who may not be able to navigate the system as well as I can, are facing with their children if I'm facing these issues.

CHAIRPERSON JACKSON: Thank you.

Next please?

RACHELLE JEAN-BAPTISTE: I'm

Rachelle.

MARIA GARCIA: Sit up all the way.

The mic is way ahead of you.

CHAIRPERSON JACKSON: Put the mic

in her hand.

MARIA GARCIA: Does it come out?

CHAIRPERSON JACKSON: Yeah, just

move the whole thing. Move the whole thing forward and move it down towards her mouth. There you go. Okay, Rachelle.

RACHELLE JEAN-BAPTISTE: All right, interesting. My name is Rachelle Jean-Baptiste, and I am a recent graduate of SUNY at Albany. My academic background starts in a school for the blind where I-- and at the time I lived in Brooklyn, so I traveled through the bus system from Brooklyn to Bronx every day to and from. And I did that until I got to sixth grade. At the school for the blind, that's where I was taught my cane skills and my Braille skills. And I was taught those skills from the age of five. Then in middle school I was in a-- I don't have the correct term, self-contained public school? It was a public school, yeah 142. There were blind students in the class also, but two of those subjects, math and language arts, I was put into the mainstream.

CHAIRPERSON JACKSON: Okay.

RACHELLE JEAN-BAPTISTE: There, in that school I also learned a lot about technologies that are available for blind people, such as JAWS, which is a screen reader. I also learned about various note takers that some have Braille displays, some have speech, some have

1  
2 both. These machines could be hooked up to  
3 printers so that when I did my assignments at home  
4 I would hook it up to a printer and be able to  
5 hand in my assignments just like all my other  
6 sighted counterparts. Then in high school I was  
7 completely mainstreamed and I also had a resource  
8 teacher.

9 CHAIRPERSON JACKSON: What high  
10 school?

11 RACHELLE JEAN-BAPTISTE: Edward R.  
12 Murrow.

13 CHAIRPERSON JACKSON: Okay.

14 RACHELLE JEAN-BAPTISTE: So once a  
15 day, well actually whenever I had time between my  
16 schedules because I was one of those student who  
17 packed my schedule with all kinds of things and  
18 after school programs and before school things.  
19 And so I would go to the resource room and I would  
20 bring in my math assignments, and this is why I  
21 really am definitely for Braille--

22 CHAIRPERSON JACKSON: [Interposing]  
23 Compared to what?

24 RACHELLE JEAN-BAPTISTE: What was  
25 that?

CHAIRPERSON JACKSON: Braille compared to what?

RACHELLE JEAN-BAPTISTE: Braille compared to speech.

CHAIRPERSON JACKSON: Okay.

RACHELLE JEAN-BAPTISTE: History books, subjects such as history and language arts, when those are being read on cassette it's just plain text. But when you're dealing with mathematics and science, where there are a lot of pie charts, graphs, symbols that are not used in everyday language and especially when you're taking math you're dealing with-- well I think my class was the last one that had Course I, II and III. I think now it's Math A and Math B, where there's a lot of trigonometry and all kinds of thing. Those have to be in a tactual form. And so I would do those assignments at home and then come in to school early the next day before it started and read back to my resource teacher what I wrote down and she would write it in print so that I could hand it in. And the same went for the science classes when I took all the chemistry and the physics and all of that, that also had to

1  
2 be in Braille. And those books were available in  
3 Braille in the resource room. So not only did I  
4 have the print versions, but I also had the  
5 Braille to take home so that I could do the  
6 assignments independently like all the other  
7 students in the class. And by the time I got to  
8 college, I was completely independent. I had all  
9 the technology I needed through the New York State  
10 Commission for the Blind, and that was a desktop  
11 computer with JAWS. My scanner had Cursow  
12 [phonetic], which you would take a sheet of paper  
13 and put it on the scanner, it would scan it and  
14 then the speech software would recognize it and  
15 read it out in speech. That same sheet of paper  
16 could also be-- the scanner could be hooked up to  
17 a Braille printer and allow what was scanned to be  
18 put out into Braille, which was another useful  
19 service for me in high school, because I had a lot  
20 of worksheets. I didn't have anyone at home to  
21 read them to me. People were busy. My parents  
22 had, you know, to work and my siblings they had  
23 their own assignments to do. And sometimes you  
24 know, I have older siblings, they're like, okay  
25 Rach, I got things I got to do too. So not only

1  
2 did I feel like I had to be independent, but I  
3 also felt like if I didn't do it for myself, than  
4 who else would? So, I am proud to say that as a  
5 college grad, I have had these services to allow  
6 me to be completely independent. And what's  
7 making me sad is that these services are not  
8 available to people growing up today who need  
9 these services. And a lot of times when I tell  
10 people--

11 CHAIRPERSON JACKSON: [Interposing]  
12 Through DOE or through CBVH?

13 RACHELLE JEAN-BAPTISTE: Through  
14 CBVH, yes.

15 CHAIRPERSON JACKSON: Really?

16 RACHELLE JEAN-BAPTISTE: Yes.

17 CHAIRPERSON JACKSON: Or they're  
18 not getting them as fast as you would normally  
19 expect to get them, which one?

20 RACHELLE JEAN-BAPTISTE: It's a  
21 mixture. They're not getting them as fast or I've  
22 heard in some cases where people are being denied  
23 because they don't fit the, quote unquote,  
24 criteria that needs to be met. I'm hearing a  
25 mixture of things. And so what that's really-- I

1 can't even put into words how I feel about that.  
2 And many times when I tell people my story they  
3 say to me, oh, that's so exceptional. And thanks  
4 for the compliment, but it's not really an  
5 exceptional story. I don't want my story to be an  
6 exceptional one. I would like for my story to be  
7 the norm. And I would like for blind children to  
8 grow up knowing that they're not separate from  
9 their sighted counterparts, but they just do  
10 things a little bit differently. So thank you for  
11 allowing me to share my story with you. Thanks  
12 for hearing me.

14 CHAIRPERSON JACKSON: Well you  
15 know, as I said to you, my bother-in-law is  
16 visually impaired and my sister-in-law, they both  
17 have retinitis pigmentosa, so as a member of their  
18 family, I have all of their experiences as a  
19 family member have gone through, and I know all of  
20 the equipment that you made reference to in  
21 regards to-- we've had it all. And he has it all  
22 and they have it all. And let me just tell you,  
23 he's been discriminated against on a continuous  
24 basis. When he put in his application for  
25 employment and he goes down there and he's walking

1  
2 and you hear him go click, click, click, they  
3 didn't expect to see a blind person coming in  
4 there that has a Master's degree in Social Work.  
5 And they say, oh my gosh, what are we going to do  
6 with this individual? Not easy. Especially when  
7 they look at his resume and they see, oh, he's a  
8 dancer. And so he's danced at Alvin Ailey and so  
9 forth as a blinded individual. And so-- it  
10 doesn't say blinded, it just says Alvin Ailey as a  
11 dancer; he walks in, click, click, click and they  
12 said, oh my gosh. Anyway. So I know from my  
13 family experiences that blinded individuals have  
14 gone through-- and as a family member also. So  
15 thank you, Rachelle. Next?

16 [Pause]

17 CHAIRPERSON JACKSON: What are you  
18 smiling for, man? You're just smiling. Go ahead.  
19 I'm sorry, brother. Go ahead.

20 MILTON WILLIAMS: I can't smile?  
21 My goodness.

22 [Laughter]

23 MILTON WILLIAMS: Good evening,  
24 good afternoon. It's getting kind of late. I  
25 will do my-- I have been known through the years

1  
2 to be kind of long-winded, so I'll do my best to  
3 be finished by 7:00.

4 CHAIRPERSON JACKSON: This mic will  
5 cut off automatically.

6 MILTON WILLIAMS: That's why I was  
7 smiling.

8 CHAIRPERSON JACKSON: We have  
9 another panel after this.

10 MILTON WILLIAMS: No problem. I'll  
11 try to do this as quickly as possible. First, I  
12 must apologize to the panel. I actually would  
13 like to thank you first, but before you I'd like  
14 to thank Ms. Garcia because I told Maria, we gave  
15 her an award for the Friends of District 75, and I  
16 told her she would have been a good mother to  
17 have, because she doesn't take no for an answer  
18 and she's going to figure out a way to get it  
19 done. And if you say no today, you know she'll be  
20 back tomorrow with four more reasons why you  
21 should say yes.

22 CHAIRPERSON JACKSON: Can you  
23 identify yourself for the record first?

24 MILTON WILLIAMS: Yeah, that's why  
25 I was smiling. I'm getting to that. My name is

1 Milton Williams. I am actually going to date  
2 myself, I guess a little bit. Since 1961 I've  
3 spent I guess upwards of 43 and a half years  
4 either attending the New York City Board of  
5 Education as a student and for the last 31 years,  
6 I've been a New York City Board of Ed or  
7 Department of Ed, whichever name they're using  
8 this week, employee as a Para Professional. I  
9 work in the classroom to assist the students with  
10 Braille, when the teacher's gotten out of college  
11 years ago and just can't remember which way the  
12 dots go, that's usually what I'm there for. I  
13 would like to apologize to the panel, because when  
14 I'm finished talking, I'm pretty sure most of you  
15 will say he was rambling. It's going to sound  
16 like I was rambling. I honestly know what I'm  
17 talking about and I had 56 topics that I wanted to  
18 mention. When I walked in with Ms Garcia and with  
19 Ms. Rachel Jean-Baptiste, from what I've heard  
20 from the other panels and from Ms. Brown and Dr.  
21 Lyles and Ms. Wernikoff, now I have about 276  
22 things that I want to mention. So I'm going to do  
23 my best to maybe mention about five or six of them  
24 and thank you all for this opportunity and I'll  
25

1  
2 let the next panel go. But from the beginning-- I  
3 got a news flash for you, I'm blind. I went to  
4 school at PS 6, 81st and Madison. I actually  
5 think the gentleman that spoke before, Raphael  
6 Rivas, I think he went to PS 6 for a while and  
7 then he left and went to private school, because I  
8 did the bussing for you. I remember his name.  
9 And I'm sitting next to Ms. Garcia and I'm  
10 thinking to myself, I'm getting old. I did  
11 Raphael's bussing. 15 years ago when I was at  
12 28th Street and Madison Avenue, one of the parent  
13 advocates who was yelling and screaming and trying  
14 to get everything for the parents was a lady named  
15 Ellen McHugh. When I used to call from the  
16 district, because I was at Taft High School for  
17 ten years and then I went the district for about  
18 17, and now I'm at HS 368 in the Bronx, 230 for  
19 the tidbit [phonetic], when I was at the Vision  
20 Office, I used to make calls to the Office of  
21 Related and Contractual Services, who was run by  
22 Joe Amacha [phonetic] Kohler. When Joe retired,  
23 two ladies took over, Eva Wapper [phonetic] and  
24 Linda Wernikoff. So, I mean the names don't seem  
25 to change. There's a lot of frequent names that

1 keep popping up. But the sad part and the serious  
2 part to me is if you look, for instances, at  
3 Educational Vision Services, which is the group  
4 that I went to school that made sure I got Braille  
5 paper and made sure there was a Braille teacher  
6 there to greet me every morning and a Braille  
7 writer; they didn't have such high technology as  
8 Rachelle had. I had to like sit there and bang it  
9 out on a Braille writer. If you ladies and  
10 gentlemen right now live your entire life working  
11 on a computer, working, I guess on a PDA, or  
12 working on a Blackberry or a Blueberry, whatever  
13 color you have, imagine not being able to sit here  
14 right now and me saying to you, I used to know a  
15 gentlemen at P 12 named Frank, and you just want  
16 to jot that down on a piece of paper, and there's  
17 no paper and no pen and no pencils. That's what  
18 they want to do to blind children now. That's the  
19 direction they're headed in with no Braille.  
20 Because computers and the modern technology is  
21 fantastic. And I always tell them; if I could go  
22 back to school I'd probably get 112 on every test,  
23 because with the technology they have now, I'd  
24 never fail a test. I didn't fail too many when I  
25

1 was in school, but I definitely wouldn't fail now.  
2 But to not have Braille and to not be able to stop  
3 and just read something yourself is crippling the  
4 child that's-- it's adding a great detriment to  
5 them. They don't see it because they're children.  
6 And that's why we've gotten to be adults and we're  
7 supposed to try to look out for them. And it  
8 just, you know, it definitely bothers me. I  
9 appreciate this opportunity to say something. I  
10 know when I'm in the cab on the way home I'm going  
11 to go, ah, I forgot something. But anyway.  
12 Educational Vision Services, which is who I'm  
13 mainly, I guess, knowledgeable about. But being  
14 around 31 years you kind of know a little bit  
15 about probably most of everything. I'm the United  
16 Federation of Teachers Chapter Leader, and I've  
17 been in that position for ten years, so I run  
18 across what the teachers are going through every  
19 day. The Board of Education is in a bad way. We  
20 have turned the system over to the Chancellor and  
21 the Mayor and it would work, I guess, in most  
22 places. But my grandmother used to tell me you  
23 can make things very simple, and the easiest way  
24 to explain this, you wouldn't put a restaurant  
25

1  
2 manager in charge of a car dealership, because  
3 they don't know anything about cars. And  
4 education, the education field is not something  
5 you can put an amount on. You might spend \$65 to  
6 educate this kid this week, and a blind child  
7 comes in who may have potential, may not have  
8 potential, but he has the right to have the  
9 opportunity to try. The piece of equipment he may  
10 need may be \$600. Years ago, when you have  
11 educators in charge, they get the equipment for  
12 the child because the child needs it. They don't  
13 get the equipment because they can get it cheap.  
14 We have a unit that we use called a Braille Lite.  
15 It's a note taker. The note taker costs \$3495.  
16 We have a little metal device; sometimes they make  
17 it in plastic called a Slate and Stylus that we  
18 write with. You can get a nice fancy Slate and  
19 Stylus for \$12. If you had left it up to the  
20 principal on what he spends, no pun intended, none  
21 of us will ever see a Braille Lite in our lives.  
22 They'll get us five Slates and Stylus, tell the  
23 teacher sit us in the corner and let us write, and  
24 they'll use that other \$5200 to do something else  
25 for the science lab or just ignore us. Because

1 when you have a society that thinks that you can't  
2 do it, you usually don't do it. People respond to  
3 being pushed, and if you don't push them, they're  
4 not going to make you push them because they don't  
5 know their qualifications or their capabilities  
6 until you push them. And what we're going through  
7 right now in Vision, I'm just going to say this  
8 and then I'm going to shut up, make everybody  
9 happy, what we're going through right now in  
10 Educational Vision Services is, as Ms. Garcia was  
11 explaining to you, the way the educational lines  
12 are broken down, it's 4.9, meaning the age, to  
13 7.9, that would be what would be called a mid 6-1.  
14 It's now called a 12-- actually the Board of Ed  
15 name is 3R 12:1:1. They put a lot of numbers  
16 there and confuse you. It used to be a mid 6.  
17 They had to have four mid 6 classes. They had to  
18 have K to 2, third grade to fifth grade, sixth  
19 grade to eighth grade and then the high school,  
20 nine through 12. We were thinking to try and  
21 change things they would maybe try and close the  
22 high school and then say there was no place to go.  
23 They did the reverse. What they've been doing.  
24 And I have people who told me that's what they're  
25

doing, I've spoken to parents, I've spoken to clinicians. I've spoken to quite a few people. When they did away with HHVI, which is Hearing Handicapped and Visually Impaired, they were the body that took the place of the CSE for vision and hearing. They would assess the children and place them in a school. The principals or directors started speaking to the people doing the referrals and kind of gently persuading them to suggest to the parent that the child go to the New York Institute. If they don't go to the New York Institute, we call them singletons. A singleton is a child in a class in a school by himself. And it will make you sad, because it made me sad. I heard of a little blind boy about maybe eight or nine years ago, and his mother called me about his bussing, because I happen to be very gifted, his mother said she couldn't get him to go to sleep until about 1:00 in the morning, because he didn't want to do his homework and then he would sit there and cry. You know why he was crying? Because they had suggested that he go to a local school, he has a Para Professional helping him every day and he has a vision teacher that comes

1 in twice a week for 45 minutes. He went home and  
2 he cried because he was worried and he was crying  
3 why did God make him the only blind kid in the  
4 world? Because he never ran across anybody blind.  
5 We used to have what's called a resource room.  
6 The resource room is how I became the man that I  
7 am now, that's saying a lot. But the resource  
8 room was a class in a school where they would send  
9 8, 9, 10, 12, 14, whatever amount of visually  
10 impaired students, to the same school. We would  
11 go to the classroom where it was set up with all  
12 of the technology that we needed, and then we  
13 would go to class with the, quote unquote, regular  
14 students, close quote. And we would go back when  
15 we needed our work enlarged or we needed to take a  
16 test. And it seemed to work a lot better than  
17 keeping the kids in these self-contained classes.  
18 When they did the last continuum, they did away  
19 with the resource room. So now rather than one  
20 school with 12 or 15 kids, visually impaired, you  
21 have 12 or 15 kids scattered out in maybe 12 or 15  
22 high schools. So every teacher has to learn that  
23 student, they have to learn what you need, what  
24 you don't need, how to help you. When I went to  
25

1 Taft High School and I walked in the class the  
2 teacher goes, oh, I know you blind people like to  
3 cut class too because I had so and so in my class  
4 last year, you're not going to get away with that.  
5 But he also knew that if you're giving a math test  
6 Thursday, the vision teacher might need it Monday  
7 or Tuesday so she could get it ready for you in  
8 Braille. So that's why I told you that it might  
9 seem like I was rambling, because there's a lot--

11 CHAIRPERSON JACKSON: [Interposing]  
12 Getting ready to cut you off. No, I'm joking.

13 MILTON WILLIAMS: See and I thought  
14 I was going to like you. In conclusion, there  
15 were just two other things that I want to touch  
16 on. They keep complaining about the bussing.  
17 Nobody will tell you, the reason why some of these  
18 children are riding for a long time, the reason  
19 why Ms. Garcia and Maria-- remind me later, I know  
20 who you can call, the reason why Allora [phonetic]  
21 is riding for an hour and a half or an hour and  
22 forty-five minutes, what they did was the City cut  
23 back on runs. So where an OPT maybe had 2,200  
24 busses last year, now they have 1,950 or now they  
25 have 1,925. So naturally, if you have more kids--

1  
2 you still have to service the same amount of kids,  
3 you just have less busses. They're going to have  
4 to put more kids on the same bus and they're going  
5 to have to ride longer. But it all goes back to  
6 the money. It all goes back to the budget. But  
7 if you don't have educators at the top making a  
8 call, they're going to do something because it  
9 seems fiscally sound and they're not going to  
10 really worry about the child. I'm not supposed to  
11 say that. And in conclusion, I'd like to thank  
12 you again for the time. And backing up what  
13 Rachelle said, I hope in the future there's a lot  
14 more Rachelles, and hopefully, I don't know how  
15 many more Miltons you want, but have a few more of  
16 me too. And we would much rather be the norm  
17 rather than the exception. That's it. Thank you  
18 very much for your time.

19 CHAIRPERSON JACKSON: Thank you.

20 MILTON WILLIAMS: And if you guys  
21 want to schedule me for a day, I'll come back.

22 CHAIRPERSON JACKSON: Thank you.

23 MILTON WILLIAMS: Thank you.

24 CHAIRPERSON JACKSON: Next, please.  
25 Press the button please.

PATRICIA CONNELLY: Hello? I'm Patricia Connelly. I'm a member of the Citywide Council on Special Education, which is one of the CECs set up after Mayoral control was authorized by Albany. But with Citywide Council on High Schools and Citywide Council on Special Education, on which I serve with Ellen McHugh, we are the only two that are actually written into state law, because we did not exist as parent advocates or bodies before Mayoral control. Having said that that doesn't make me an advocate or a fan of Mayoral control. But because I have to be at my son's school at 6:00 because he has to have OT at 6:30 at night because the school couldn't-- had a shortage of providers, I'll make this quick. I got involved in advocacy because my son, who is in fifth grade and facing the transition into middle school, has severe learning disabilities. He's also very gifted. I feel very lucky because I was raised by a very gifted learning disabled man, my father, who was dyslexic and functioning-- he could read what he was interested in, but was unable to write for himself. He was forced out of school in Newark, New Jersey, at the age of 16 and

1  
2 he fudged his record so he could join the Navy,  
3 see the world, become a man and figure out what  
4 he'd like. He came back, did his GED, married my  
5 mom. But he happened to go into a field, the  
6 early computer field, that allowed him to learn in  
7 a multi-sensory way, without knowing those words  
8 in those days. And he's nine years passed now, as  
9 is my mom, but I think about him every day. And I  
10 think about what a success he was with his own  
11 life, but that was just because of the  
12 extraordinary man he was. It's not because of  
13 anything that existed in his day. Nor that  
14 classroom you were in, I would venture, you know,  
15 it wasn't until 1975 we had federal law, and there  
16 was no IEPs before then.

17 CHAIRPERSON JACKSON: Oh, okay.

18 PATRICIA CONNELLY: So, in those  
19 days in catholic schools and public schools, they  
20 just put the different kids in separate rooms, and  
21 just kept them. All right. The Citywide Council  
22 on Special Education in the narrow sense advocates  
23 on behalf of the kids and families in District 75.  
24 That is the Chancellor's interpretation of it. In  
25 state law we should advocate for all parents in

1  
2 the system with children on IEPs. But in their  
3 way of divide and conquer between the CECs and the  
4 CSE, we're constantly, you know, sort of put to  
5 the side. So we've made it our business to try  
6 now to come to as many PEP meetings and hearings  
7 and to say that we have deep expertise about  
8 navigating the system and we want to be at your  
9 service in trying to, not just fix what's wrong,  
10 but truly make our system a model nationwide. The  
11 two things that we feel are essential, regardless  
12 of governance of the system, for anything to  
13 change in Special Ed, and I think everything that  
14 was said here today, I concur with all my  
15 colleagues and advocates and parents; you're not  
16 going to get transparency. You're not going to  
17 get valuable or legitimate grievance adjudication  
18 if there's not one person in charge. You can't  
19 have--

20 CHAIRPERSON JACKSON: [Interposing]

21 But the Mayor's in charge.

22 PATRICIA CONNELLY: No, no. See  
23 I've asked the Mayor-- no, no. Well yes, but no.  
24 You ask everybody here who advocates-- I advocate  
25 for my kid, but any other parent who comes up to

1  
2 me and you say, who do we call? We were sent to  
3 the CSE, we were sent to this principal, we went  
4 to the City, we went to the District. When we  
5 asked the Chancellor in January at the postponed  
6 Special Ed update of his at his PEP meeting, well  
7 who's in charge? Really, who is in charge? The  
8 principal is in charge, he said.

9 CHAIRPERSON JACKSON: That was his  
10 response?

11 PATRICIA CONNELLY: That was his  
12 response.

13 CHAIRPERSON JACKSON: Okay.

14 PATRICIA CONNELLY: The Chancellor  
15 said the principal was in charge.

16 CHAIRPERSON JACKSON: Okay.

17 PATRICIA CONNELLY: Well legally,  
18 as my colleague said before, without savvy or  
19 parents who don't take no for an answer, find  
20 amazing groups like Advocates for Children and the  
21 other groups here or other parents who are willing  
22 to be volunteer advocates, like myself, there's no  
23 accountability in the system. Our view is whether  
24 it's under Mayoral control or some version of it,  
25 I'm more for direct democracy myself. I feel that

parents have been shut out completely. I think we need a deputy chancellor level, not Marcia Lyles, in all due respect, I'm a District 15 parent. I was a teacher both in District 75 and District 15. I'm well aware of who knows what about special ed, at least in those two districts. And we need a deputy chancellor level position, with the power to enforce the 18 separate-- there are 18 separate departments and offices within the DOE with some role in special ed. Who is in charge, I say again? Now, the other second thing is special ed parents and their advocates, but I would say especially special ed parents, either those with kids in the system now or those who survived and got their kids through the system, have to be at the table, starting at the IEP teams, SLTs, the Citywide Councils, or if we go back down to Board of Ed. So there has to be seats set aside for a population that exceeds 14% of the entire school population and accounts for more than 28% of school expenditures. Without us at the table, we're going to have to form our own advocacy groups, hire our own lawyers, if we can, and constantly litigate this. And that's not what any

of us want to spend our time on. I was laid off in November, the day after Election, by Goldman Sachs, and I'm grateful actually to them at this point in my life because A, I got unlike a lot of people six months severance. But that has allowed me to advocate for my child, who is transitioning into middle school. And I'll leave you with this, last year there was a mom here who couldn't stay. I met her because her son is a year older than my son in our school, which is PS 372, the Children's School in Brooklyn. It's a unique collaboration between District 15 and District 75. It was founded as a fully public school, not charter, in 1992. It's been in the same place, on the Gowanus, near the Gowanus Canal, leasing school property from the Catholic Church, the Diocese of Brooklyn. Ever class from pre-K to fifth grade, every grade, every class-- there's three classes on a grade, is fully CTT. That means we cap kids at 24. 40% special needs, 60% general ed. We have a fully certified general ed teacher and a fully certified special ed teacher, one to four Para Professionals in the classroom depending on the individual needs of the kids in that

1  
2 classroom. We have multiple speech-- we are very  
3 well resourced, and I am extremely fortunate to  
4 have had the chance to place my son there and to  
5 briefly teach for that remarkable school. Not  
6 everything's perfect, but as I go around the City  
7 advocating all over the Boroughs with the Citywide  
8 Council, people are clueless about what real  
9 inclusion and CTT means. I urge you to visit our  
10 school. We were approved for a middle school, a  
11 secondary school expansion five years ago. The  
12 DOE and the Office of Portfolio Development has  
13 dragged its feet, in those five years has not  
14 given us space, while multiple charter schools  
15 have taken appropriate space in the District 15,  
16 District 17, along the Gowanus, you name it. And  
17 here we have a national model that we cannot share  
18 further with our own community, not to mention the  
19 City. Last year when OSEPO took over middle  
20 school placements, they took over placement for  
21 kids in special needs, IEPs, who were not in  
22 District 75. Right? CTT kids and others. There  
23 are districts; I don't know if CEC district 6 is  
24 one, but I know in District 15 we're a choice  
25 district, we were one of the first. That means

every child aging out or graduating out of fifth grade has a choice, can put on an application. Last year our general ed kids were notified two full weeks before our CTT students were in the district of their placement. Our kids at the Children's School graduated together. They've been educated since preschoolers, some of them don't even know that the kid next to them has a full IEP and gets a full round of services. Those kids marched through graduation with the general ed kids, squawking about their placements, what they were going to do for the summer, how exciting it was going to be next year to be a middle schooler, while the 40% of those kids in that graduating class had no clue about the school that they were going to.

CHAIRPERSON JACKSON: Okay.

PATRICIA CONNELLY: I dragged Sandy Ferguson [phonetic] and his-- Ellen, I forget her second name, to our Citywide Council meeting in Coney Island. Sorry, we go all over the City, you have to come out to Coney Island, and explain to me, the Council, and to my parents how could we-- I mean it was like that one student, but multiply

1  
2 it. At our school and every other school in  
3 district 15 and other choice districts that had  
4 CTT students graduating with no idea where they're  
5 going. I was promised by Sandy Ferguson that we  
6 would be at the table. I've never gotten an  
7 invitation. We've met with Marty Markowitz's  
8 people, we've met with other people around the  
9 system. We've faxed and emailed our  
10 recommendations. But as far as we're concerned  
11 I'm ready in full battle gear to go through this.  
12 I said to him personally, I said you think I'm  
13 rough this year. My son's in fifth grade next  
14 year. If this happens again-- realize as far as  
15 I'm concerned all hell's going to break loose.

16 CHAIRPERSON JACKSON: Okay.

17 PATRICIA CONNELLY: So I'll just  
18 leave it on that note and ask you to include the  
19 Citywide Council on Special Education as a  
20 resource for your fine work. And we're very  
21 grateful that you are the chairman of the  
22 Education Committee of the City Council. Thank  
23 you.

24 CHAIRPERSON JACKSON: Thank you.

25 PATRICIA CONNELLY: I've got to run

1  
2 and get my son. Sorry.

3 CHAIRPERSON JACKSON: Our last  
4 panel, Bernard Yee, in my district representing  
5 himself and his family of course; Charles Curan  
6 [phonetic]. Is Charles here? No. And Jo Anne  
7 Simon, Esq., is Joanne here? Hi, Joanne, sorry.  
8 And Susan Crawford, Right to Read Project. Is  
9 there anyone else who needs to testify? Please.  
10 Bernard? 160 Cabrini, that's my area. Press the  
11 button Bernard, please.

12 BERNARD YEE: Hello? Okay. Yes,  
13 Councilperson Jackson, thank you for being  
14 patient. I met you at Speaker Quinn's community  
15 session briefly in Castle Village.

16 CHAIRPERSON JACKSON: Oh, okay.

17 BERNARD YEE: And I wanted to  
18 actually note it's really unfortunate I think that  
19 several parents had to leave. Everyone else here  
20 to spoke today, that's part of their job. A lot  
21 of us, like myself, took the most of the day off  
22 in a very difficult economic climate--

23 CHAIRPERSON JACKSON: [Interposing]  
24 I hear you.

25 BERNARD YEE: [Interposing] To come

1 and talk, and I think it's actually important if  
2 you value the qualitative data as much as the  
3 quantitative data that the Department of Ed spoke  
4 about. So just to give you a little background, I  
5 grew up in New York City. I'm a product of the  
6 New York City Public School System through high  
7 school. I went to College in Morningside Heights.  
8 I took a brief detour to North Carolina for grad  
9 school, but came back. So I'm actually a firm  
10 believer as a product of the New York City Public  
11 School System, in general. So I kind of came at  
12 that with this bias. I became a parent in 2002,  
13 to my son, Max. Max had a lot of various medical  
14 issues. He was born ten weeks early. He spent  
15 three months in the Mount Sinai Neonatal Intensive  
16 Care Unit, another three months in the Pediatric  
17 Intensive Care Unit at Mount Sinai, another 13  
18 months at Blythesdale, another children's hospital  
19 up in Westchester, so about 19 months. And in a  
20 lot of ways I think that that really helped me as  
21 a parent in dealing with the public school system,  
22 because I had already kind of fought, my wife and  
23 I already fought the medical system. You know, we  
24 were told lots of things like he's going to die,  
25

1 he's deaf, he's going to, you know, live a  
2 severely disabled life. And none of these things  
3 actually happened. So by the time we got to the  
4 public school system we kind of knew not to  
5 believe what anyone on the other side of the table  
6 is going to tell us at first glance. And I'm here  
7 to tell you, you know, I'm actually not a  
8 particularly disgruntled parent in terms of where  
9 Max is today. And if there's one thing I think  
10 that being the parent of a special needs child  
11 teaches you is that you're not supposed to look  
12 too far ahead anyway, because, you know, I think  
13 that that's sort of the gift that we get. You  
14 know, no one's guaranteed tomorrow. You look at  
15 today, you deal with today, tomorrow comes, you  
16 know, you don't ignore it but you're not going to  
17 plan on it. So we get to the public school  
18 system, and I can only tell you about what my  
19 experience is. And I think-- there's a saying  
20 that I learned in law school, right, that hard  
21 cases make bad law. And I'm here to kind of give  
22 maybe not an edge case scenario, not a really  
23 extreme difficult to hear story, because I think  
24 that people hear those stories and they tend to  
25

1 think, well how often can that happen? You know,  
2 is this a special case? Is this the tearjerker  
3 that we're bringing out to talk about, versus this  
4 real alleged mountain of data that the Department  
5 of Ed has given you. And I've made a couple note  
6 when the DOE people spoke, and I wanted to refer  
7 to them really quickly. One of the speakers who  
8 was sitting here, a brunette, said that we were  
9 talking about hearings and placement, private  
10 school placement, independent school placement.  
11 And her-- the way she referred to this, and I  
12 would caution you to be especially careful, and  
13 you probably know this, to be especially careful  
14 about the choice of language that people use when  
15 talking about this. The way she talked about  
16 parents who placed their child into an independent  
17 school is, parents don't want the school  
18 recommendation from the Department of Education.  
19 What really the parents are doing is they're  
20 exercising their federal right under IDEA for a  
21 least restrictive education, a fair appropriate  
22 public education. And it's not that we don't want  
23 the school placement, we believe that it doesn't  
24 satisfy the federal rights given to us. So we  
25

1 rejected the placement from the CSE twice, not  
2 because we didn't want the school. That makes it  
3 seem so arbitrary and a personal decision. It's  
4 because we didn't believe it was a free,  
5 appropriate public education. And one of the  
6 things-- I think I want to say this for the record  
7 because I'm sure everyone here understands it, the  
8 Individuals with Disabilities Education Act  
9 authorizes parents to bring an action to recover  
10 tuition in the case where the public school system  
11 cannot provide you an appropriate public  
12 education. And it goes one step further in that  
13 when you bring a successful action, you're  
14 entitled to recover attorney's fees. Right?  
15 There are very few laws in this country that allow  
16 you to do that, most notably the Civil Rights Act  
17 of 1964. Right? Only the sort of most important  
18 rights deemed as part of public policy grant  
19 plaintiffs the ability to act as, what I think the  
20 case law has called, private attorney generals.  
21 These rights are so important that individuals can  
22 go out and fight and get their money back because  
23 probably, I think the legislators don't believe  
24 that the system is going to be self enforcing or  
25

1 there's an adequate public enforcement system. So  
2 the rights that we're talking about, I think, are  
3 really under-- I would argue among the more  
4 important social policy rights that exist today.  
5 So my son is at a private school. It's a non-  
6 funded private school, which means we have to  
7 write a check for about \$42,000 next year and hope  
8 that we can roll the dice and get our money back.  
9 Now I have to say that so far my experience with  
10 the CSE, the Committee on Special Education, has  
11 been pretty good. You know, they seem to really  
12 care about what goes on. And partially I believe  
13 this is the case because my son has a medical file  
14 about this thick, so they see this, they see what  
15 we've lived through; it's a very sad situation or  
16 it has been. I think if you met him today you  
17 probably wouldn't know, but I think that's a good  
18 thing. So I've found the CSE generally pretty  
19 cooperative. Right? They read it, they read his  
20 evaluations, he has a private evaluation. We're  
21 lucky that we-- while I'm not an investment banker  
22 or anything like that, I'm part of a, I guess what  
23 I would call a Manhattan middle class, we can  
24 afford to get a private evaluation, primarily

because we don't trust anyone else's evaluation. They read all the paperwork. They visit him in school. They seem genuinely impressed by his progress. They seem to want to do the right thing and they make a placement. So last year they recommended a 12:1 classroom. First they recommended a 12:1:1 classroom, because my son has some attention issues, like his dad. And you know, we wanted the additional oversight. But the parent advocate at the meeting says, you don't want to send your kid to a 12:1:1 program, because they're crazy in there. They're violent. And, you know, a parent is saying this to me. I'm like, all right, we don't want the 12:1:1 classroom, because my-- you know, as far as I can tell if there's a reincarnation of a Tibetan Lama, it's probably my son because he's completely non-violent. So all right, we'll take the 12:1 placement. And as you know, it refers to a teacher student ratio. My wife goes to visit the school and my son reads about a year and a half ahead of his grade level. His cognitive profile is scattered from the 23rd percentile to the 99th percentile. So my wife goes to the placement and

1 the room is full of kids who aren't toilet trained  
2 yet, kids who aren't reading, kids who don't  
3 recognize letters, fairly retarded children, you  
4 know, fairly disabled children. And there's  
5 obviously a huge disconnect between where the  
6 placement was and what the actual conditions of  
7 the school are, right? Because it's clearly one  
8 hand doesn't know what the other hand is doing.  
9 So it really upset me, because we knew we weren't  
10 going to send him there. Right? We saw the  
11 placement. We knew it wasn't appropriate. But  
12 what if we didn't know? What if we didn't have,  
13 you know, the resources to fight this, to have a  
14 private lawyer, to have a private evaluation, to  
15 have a network of parents that have been through  
16 this before? Would we send him there? Would we  
17 wait until they found another placement for him?  
18 So this is obviously the second placement, the  
19 first grade placement that my son had. We ended  
20 up sending him back to his school, the Aaron  
21 School on 45th and 2nd, near the UN. And you  
22 know, we kind of raided my savings account,  
23 doubled down, said all right we're going to write  
24 another check for \$40,000 and we're going to hope  
25

1 that the Board of Ed pays us back. And to their  
2 credit, they settled again this year. So I'm  
3 happy with the outcome. And it's unfortunate that  
4 more parents aren't here. And I'll remind, you  
5 know, also that you know, you go back to this  
6 example of the private attorney generals, I cannot  
7 think of a class of people less emotionally  
8 prepared to fight than special needs parents.  
9 I've had many jobs in my life. I've been a  
10 lawyer, I've been a writer, I currently make video  
11 games. But by far the best job I've ever had is  
12 to be my son's dad. Hands down. It takes a huge  
13 amount of energy, not to mention my son's mom is  
14 in an even more demanding job. We don't have the  
15 fight to do this. We don't have the energy to go  
16 against the Board of Ed. And I went to law  
17 school, I'll fight anybody over a good argument,  
18 you know. But I don't have the energy to do this.  
19 And most parents don't have the energy to fight  
20 this. So this is why I wanted to come and talk  
21 today was this-- I'm pretty, I'm obviously fairly  
22 close with a lot of the parents in my son's  
23 school. Some of them are very well off, no  
24 surprise. Anyone who can write a check for  
25

\$40,000 I would say is fairly well off, even in Manhattan. Some are not. But all of them are kind of consumed with this desire to advocate for their children. And I think that there may be a public perception and maybe among lawmakers, that the Board of Ed is paying the \$35,000, \$33,000 for this kid's education, that's more than Dalton, right? I want to remind everyone that my son doesn't go to Dalton, that I would trade my left arm to have him in a general ed, you know, school up on Cabrini Boulevard where he could walk to school and have neighborhood friends, and that this-- we're part of a club that no one really wants to belong to. So while we're getting this fairly sizeable chunk of money to send our children to school, it raises a lot of interesting points to the special ed system. What the Department of Education said about the 6,000 some students that are in the private special ed schools like Gateway or Churchill, Aaron, all these other schools, is that there's this huge parent body that I think right now feels that they're under assault by the Department of Education lawyers. In the last few years, as far

as I can tell from my attorney, so this is hearsay, the Department of Education has hired a bunch of lawyers to go fight parents on their placements. Right? And this is-- I recognize this. Like I worked for a big law firm in midtown, this is warfare by litigation. We know how this works. You hire a bunch of lawyers, you hope they back down. I mean you saw Erin Brockovich. Everyone knows that this happens. People just don't expect the Department of Education to take this on. So what I think I see, and again, because I'm pretty happy with how things are going for me, I hope that you take this not with a particular personal agenda to get things fixed, but an observation and a desire for this not to happen again for me next year or other families, is that the Department of Education has really taken this adversarial stance, hiring more lawyers, intimidating parents who are already sort of at wits end, who I'll remind you of those people who were here at Parents, you know, having a special needs child really means kind of throwing away all those dreams you had for your child and reevaluating what exists, that there's a

1  
2 climate of litigation and intimidation that  
3 parents now feel the system is sort of stacked  
4 against them, that everywhere from the lawyers to  
5 the State Review Officer. People feel like  
6 they're not going to get a fair hearing. And  
7 there is an appeals process after that. You can  
8 appeal to state or federal court. You know but,  
9 I'm not Tom Freston. I can't appeal to federal  
10 court. And I wasn't the CEO of Viacom and I think  
11 it's a very difficult situation. It's a very  
12 difficult climate. And frankly I don't really  
13 know what to do about it. You know, things are  
14 working okay for me, but I don't know if that's  
15 going to continue. Things clearly aren't working  
16 okay for everyone. Do we organize a group of moms  
17 to go and wage a public relations campaign? Do we  
18 try to push more class action litigation? I don't  
19 know. And I'm not here, I don't have statistics,  
20 this isn't my job. This is just what I've been  
21 dealt. And I'd like to understand, what can we do  
22 for this? What can you do? If Bloomberg gets a  
23 third term, is this the way it's going to be? Do  
24 we just keep our head down?

25 CHAIRPERSON JACKSON: You've got to

1  
2 keep fighting. The Mayor has control. You've got  
3 to keep fighting. You've got to organize and  
4 fight.

5 BERNARD YEE: Well and that's why  
6 I'm here. And I just want to share with you my  
7 story and what we observe as parents, that we're  
8 being intimidated and that we're being pushed  
9 around. And it's a group that's pretty tired and  
10 it's not easy to fight back.

11 CHAIRPERSON JACKSON: I agree. I  
12 totally agree.

13 BERNARD YEE: Thank you.

14 CHAIRPERSON JACKSON: Thank you.  
15 Next? I'm sorry.

16 JO ANNE SIMON: Thank you. My name  
17 is Joanne Simon, and I'm the president of the New  
18 York Branch of the International Dyslexia  
19 Association, and privately I'm an attorney as  
20 well, who has dealt with a number of special  
21 education and just education and disability  
22 issues. I'm going to speak today about, I've made  
23 a few notes about some points that address some of  
24 the things that were raised earlier, and a few  
25 others that are a little bit different. One is I

1 wanted to talk briefly about the notion of special  
2 education reorganization and how connected that is  
3 to the IDEA, the Individuals with Disabilities  
4 Education Act. And one of the things that  
5 certainly I have noticed is this trend towards  
6 trying to declassify students and put more  
7 students in general education. The least  
8 restrictive environment requirement has of course  
9 been around for a long time, and least restrictive  
10 environment doesn't mean whether it's 12:1:1, as a  
11 woman testified earlier, for example for a student  
12 who is blind. The least restrictive environment  
13 may actually be a smaller classroom with children  
14 who have similar disabilities, because they're  
15 actually going to be addressed. As a former  
16 teacher of the deaf I feel very strongly, for  
17 example, that a lot of deaf children are better  
18 educated when their needs are being met, which are  
19 not necessarily best met in a large, you know,  
20 mainstream type setting. However, students with  
21 disabilities who may not meet the standards of  
22 IDEA or may not be classified, and the school  
23 district may in fact declassify them, they are  
24 still entitled to various accommodations, and  
25

1 they're still entitled to non-discriminatory  
2 policies if they have a substantial limitation to  
3 a major life activity. They would be covered by  
4 section 504 of the Rehabilitation Act, or the  
5 Americans with Disabilities Act. The Americans  
6 with Disabilities Act was recently amended, in  
7 fact it became effective January 1st. In July I  
8 testified before the Senate with regard to the  
9 impact of the restored definition, essentially, to  
10 education, whether it was K-12 as well as higher  
11 education. It was interesting to me that the  
12 people who testified against the restoration of  
13 that definition was the American Council on  
14 Education, and the Council of the Great City  
15 Schools, which is a consulting group that  
16 represents many school systems, and did a fairly  
17 critical report recently on District 75. But the  
18 concern is that we're going to have to deal with  
19 these kids. And the problem is, of course, that  
20 if we're not dealing appropriately with their  
21 needs, and they're still going to be in the  
22 classroom, or those parents will be forced, like  
23 this gentleman, to put their children in a private  
24 school that will more appropriately address their  
25

needs. And I think that one of the things that we're seeing with regard to the concerns that have been expressed by the Department of Education and the increased legal staff is the fact that we don't replicate what works. You know the Aaron School works because it works on a particular model and they use methodologies that work to educate the kinds of kids that are there. We can use those methodologies in the public school system. We don't have enough trained teachers. Certainly my organization has done a lot of teacher training in the Orton-Gillingham methodology. We are using more Wilson in the schools, and that's good, but we need to do much more of it. We don't have enough teachers who understand what it means for a child to be dyslexic for example. We go out and do one-hour briefings with parents on how to recognize what a learning disability is. And so many teachers want to know more, but don't have the background. So we need to provide better and more targeted IEPs, more targeted plans for children who are not even covered by the IEP, and we're not tracking those 504 kids at all. So you noticed when you heard

1 from the Department, they really weren't  
2 addressing those kids who were not classified.  
3 And that is an issue for our educational  
4 programming going forward; it's certainly an issue  
5 for the Council to address. Because of that and  
6 because very often we have kids who are in the  
7 General Ed system without teachers who are  
8 trained, without necessarily administrators who  
9 understand their needs, there is a greater  
10 increase of intimidation. There's also a lot of  
11 bullying that goes on among kids and that often,  
12 for lack of a better way to handle it, a lack of  
13 training in behavior management for example, is  
14 often given license to buy the administrators and  
15 teachers, because they simply don't know how to  
16 handle it. And that then makes parents afraid to  
17 complain, makes parents afraid to assert their  
18 rights. I know recently I've heard from several  
19 parents who have been told, you know, if you don't  
20 win we're going to come back and get attorney's  
21 fees from you. That is very, very intimidating  
22 and is not something that I think the Mayor would  
23 say that he wanted. It's not something that I  
24 believe the Chancellor would say that he wanted.  
25

1  
2 I know it's something that the members of the City  
3 Council do not want to have happening, but I know  
4 the parents have been told that. And let me just--  
5 - I feel like I'm just sort of... Okay. And when  
6 we get to behavior management, I just, another  
7 sort of little point is here is that so many of  
8 our children have language-based disorders or if  
9 they're English language learners, English is not  
10 their first language. And when it comes to  
11 behavior management, it's very important that  
12 we're not punishing behavior that isn't meant to  
13 be misbehavior, that is a child just not  
14 understanding or not understanding how to  
15 appropriately address that. And then we engage in  
16 things like too much timeout rooms, etcetera,  
17 etcetera, and so many of our children are affected  
18 by that. So just a couple of issues I wanted to  
19 raise, and I think they address some of the points  
20 that were made previously by you, Council Member,  
21 and I appreciate that. Thank you for the  
22 opportunity.

23 CHAIRPERSON JACKSON: Thank you.

24 Last, but not least.

25 SUSAN CRAWFORD: We didn't plan it

1  
2 this way, but as you know, I could have-- Susan  
3 Crawford, from the Right to Read Project. And Jo  
4 Anne and I have met briefly by phone, but have  
5 much, much to talk about. So I just want to pick  
6 up on the very last thing she said, to say a lot  
7 of the behavior difficulties in the classroom are  
8 because they simply can't traffic in the currency  
9 they're being asked to deal with, which is called  
10 reading.

11 CHAIRPERSON JACKSON: Identify  
12 yourself for the record again. Oh you did  
13 already?

14 SUSAN CRAWFORD: Yes.

15 CHAIRPERSON JACKSON: Oh, I'm  
16 sorry. I'm just a little tired.

17 SUSAN CRAWFORD: And for the rest  
18 I'm just going to respond to things I heard in the  
19 earlier testimony. This reorganization is taking  
20 us from the files on the street in 2003 to the  
21 children on the street in the fall of 2008. Dr.  
22 Lyles said principals will deem measures necessary  
23 for the special ed that is given in their schools.  
24 She also said, she gave a bunch of stats and said,  
25 this is evidence the Children First initiatives

1  
2 are beginning to work. Beginning to work seven  
3 years later. My son was taught to read in  
4 Lindamood-Bell in eight weeks. It can be done.  
5 Cross-functional problem solving is going to be  
6 Mr. Harries' job. I suggest the City Council ask  
7 for an exact job description of what he's going to  
8 be doing. And I want to end with what I think the  
9 job description really is. Councilwoman Katz said  
10 she hears in her district that schools are being  
11 forced to limit the number of students with IEPs  
12 and Dr. Lyles has previously said that principals  
13 give the measures, the services, they deem are  
14 necessary. I've heard from parents that, for  
15 instance Patricia Connelly who just testified in  
16 this seat before me, they try to limit-- they have  
17 a 40:60 ratio they try to keep in their school.  
18 The reason they try to do that so hard is because  
19 the school is known to be so good at helping  
20 children with special needs that parents will move  
21 into that district to go to that school.

22 CHAIRPERSON JACKSON: What school  
23 is that?

24 SUSAN CRAWFORD: The Children's  
25 School in District 15. And there's--

CHAIRPERSON JACKSON: [Interposing]

But is that 60:40, 60--?

SUSAN CRAWFORD: I think it's 60 regular ed and 40 IEP. And there's probably--

CHAIRPERSON JACKSON: [Interposing]

They would move into there because it's so good.

SUSAN CRAWFORD: Exactly. And there are towns in New Jersey, and another friend went to a school on the Lower West Side, middle West Side, where it was the same thing. They were so good at helping the kids in the resource room that the school began to overflow with struggling readers and then the principal was told to cut back on giving IEPs. Dr. Lyles noted, or Linda Wernikoff noted the graduation rate of 19%. Well apart from all the reasons you've heard here all afternoon, I will just reiterate it's mostly because those students aren't reading. It's appalling to think that 19% is some kind of improvement. And I can tell you that I had a parent say to me, whose son was in special ed for eight years, eighth grade, she said are you going to teach him to read this year? And they said reading is not a service that's provided by the

1  
2 Board of Education. She took him out, put him in  
3 a small school near her neighborhood, three hours  
4 a morning, he was reading within eight weeks.  
5 He's now in high school and he's fine. Council  
6 Member Vacca, the structure keeps changing, he  
7 asked. Why is this? In the response I was  
8 shocked to hear the CSE is now only handling  
9 parochial and charter school children. What is  
10 that about? I mean, couldn't they handle  
11 everybody else like they used to? They do so  
12 because the principals respond at the school  
13 level. Okay, I've said that; I've said that.  
14 Okay. Why do you keep reorganizing, Council  
15 Member Vacca asked. Every since all these  
16 reorganizations-- and I'll come back to that again  
17 later.

18 CHAIRPERSON JACKSON: Because  
19 there's always change, and that's what they want  
20 it to be. That's their M.O., constant change, not  
21 only in special ed but in regular ed and  
22 everything else, so that there's no stability.  
23 There's no continuity and they're going to say,  
24 this is all about progress and Mayoral control,  
25 which is a lot of nonsense if you ask me. But

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anyway.

SUSAN CRAWFORD: The term is creative destruction. It's creative destruction. I think that's a Jack Welch term.

CHAIRPERSON JACKSON: Okay.

SUSAN CRAWFORD: And it comes through the McKinsey people, and so when I heard that Harries came from McKinsey I thought oh, so it's just to take like an egg beater and go like this with the whole system. Linda Wernikoff said trying to keep their proportions of IEPs at 14% in each school. Well in the general population the number of struggling readers is four out of ten, so that's close to half a million in the system who need help with reading, and that's apart from the kids with behavior issues and other things that--

CHAIRPERSON JACKSON: [Interposing]  
But only about 50% graduate from high school period.

SUSAN CRAWFORD: Right.

CHAIRPERSON JACKSON: Right, at this point in time. Yeah.

SUSAN CRAWFORD: So the numbers are

1  
2 right there. Council Member Ignizio said he gets  
3 parents with letters saying you didn't know to ask  
4 for such and such a service. And I was at a  
5 hearing, a VESID hearing a few weeks ago where  
6 Rebecca Cort from the State Education Department,  
7 when I said something similar about parents who  
8 don't get what they need. She said something kind  
9 of similar. Well, if they're not getting what  
10 they need they have to know to ask for more.

11 Well, just to reiterate what he said, when you are  
12 the parent of a first grader who is struggling to  
13 read, you have no idea what you're dealing with,  
14 much less what that child's dealing with. And so  
15 there's this rush to the bottom, it's a system  
16 that just wants to do the minimum. And if they're  
17 not even doing that, sue me. The things are out  
18 there. She can tell you. I mean the programs are  
19 there to help everyone read and they're just not  
20 being used. Linda Wernikoff said New York City  
21 far exceeds the proportion of special ed students  
22 compared to any other large urban center in the  
23 country. I won't get into this now, but I'll send  
24 you separate information that so many other cities  
25 know to address the reading problems, and they

1 will say New York City is completely backward on  
2 this. And if you address the reading problems,  
3 you have far fewer children in special ed, and I  
4 won't belabor this either, but I will send you  
5 separate testimony about why is this DOE doing it?  
6 Why do we have children being left back in third  
7 grade but not being taught to read? Wilson and  
8 Foundations are available. I've heard things like  
9 2,000 teachers were taught Wilson and then  
10 retired. So, did they teach 2,000 more or didn't  
11 they? Wernikoff-- assessments done at the school  
12 by the psychologist who does look at all  
13 underlying-- oh, this is in response to the  
14 question I passed on-- that the school  
15 psychologist looks at all underlying processes  
16 related to reading and that there's not a  
17 particular test for dyslexia. Well there isn't  
18 one single test for dyslexia, but there is a  
19 battery of tests, and you just give it to them and  
20 then you know what the problems are and then you  
21 address them. And it's--

23 CHAIRPERSON JACKSON: [Interposing]

24 Do you think that most teachers don't really--  
25 doesn't know whether or not a child is dyslexic?

SUSAN CRAWFORD: They don't know--

CHAIRPERSON JACKSON: [Interposing]

I don't know, I'm sorry. I don't know what to look for. I mean, I'm not a teacher, but I'm a parent.

SUSAN CRAWFORD: Go ahead.

JO ANNE SIMON: They don't know what to look for. And for example, when we do these sort of one-hour things that will introduce parents, and we're always happy to have teachers sit in, they don't know that it's not reading backwards. They don't understand that it's fundamentally a deficit in associating sounds with the letters and the words, and that fluency is important. You know, if you can-- you may be able to know your letters or some words, but you've got to have fluency, you've got to be able to connect those things. And if we're not addressing those-- you know, good teaching of reading is good teaching of reading. You don't have to-- Foundations would work with, you know, all kinds of kids. A structured multi-sensory approach to reading is the best evidence-based method that we have. The National Reading Panel has agreed with

1  
2 this. We know what works; we're not doing it and  
3 we're not doing it for all kinds of reasons and  
4 we've made up a lot of reasons.

5 BERNARD YEE: They use it at Horace  
6 Mann in the general ed population.

7 JO ANNE SIMON: Yeah, that's right.  
8 If you're looking at good teaching of reading,  
9 it's good teaching of reading and we don't have  
10 enough people who know how to do it, and teacher's  
11 just don't understand. As I say, they're crying  
12 for this information. And the Wilson  
13 introduction, people got-- a lot of people were  
14 trained, and of course you can't roll out a  
15 program like Wilson overnight with a big school  
16 system like this. But you need to have follow  
17 through and you need to have supervision so that a  
18 teacher just doesn't get a one-day program or a  
19 two-day program then go back and try and implement  
20 it. They need guidance on continually how to  
21 implement that, because you need practice, and  
22 that's something that we aren't doing very well in  
23 our professional development.

24 CHAIRPERSON JACKSON: I'm sorry.

25 SUSAN CRAWFORD: No, thank you.

1  
2 Regarding the girl who was blind saying that it's  
3 come down to it's easier for them to farm the  
4 services out--

5 CHAIRPERSON JACKSON: [Interposing]  
6 Right.

7 SUSAN CRAWFORD: --to send them off  
8 to the Bronx rather than put them in the school.  
9 It reiterates something that was in the Times in  
10 the middle 2000s about how this is where the DOE  
11 was headed, they were going to look for private  
12 vendors for special services. Well if that's  
13 true, then let us find the special services, go  
14 get them and let the DOE just write a check, not  
15 sue us over it. It would be very easy. And  
16 you've mentioned a number of times about the  
17 unintended consequences of a lot of these actions,  
18 and I am sorry to say I think they're very  
19 intended. I'll think there's-- and I'll send you  
20 other stuff too. I won't get into it all here.  
21 But reading stuff about the business roundtable  
22 and I was just thinking, oh, it's so perfect, this  
23 table is round. Because I'm inclined to think of  
24 us as the parents-- we've got to form the parents  
25 roundtable. And there is a push to really lower

1  
2 the standards, to lower the education that is  
3 being given to our children. When I compare what  
4 we got as baby boomers in the 60s and early 70s to  
5 what's available in most schools now, it speaks  
6 for itself. And so in some ways these  
7 consequences I think are very intended. And I'll  
8 just reiterate again, when I heard he was from  
9 McKinsey it just kind of said it all to me. And  
10 that Chancellor Klein is asking for the State to  
11 release him from having to use the Council for  
12 Equity money and the special ed money for its  
13 intended purposes also says it all; they will not  
14 use it where it's intended to be.

15 CHAIRPERSON JACKSON: Thank you all  
16 for coming in.

17 BERNARD YEE: I actually just want  
18 to add one more point real quickly.

19 [Crosstalk]

20 BERNARD YEE: No, no. One of the  
21 things I'd like to understand and maybe you should  
22 think about also is how is it that my son gets an  
23 education for about \$40,000 that's more effective  
24 than I think what the Board of Ed would actually  
25 spend on him in a 12:1 classroom. I think that

1  
2 the amount of dollars being spent on kids in those  
3 rooms are at least \$30,000, \$40,000 a year if not  
4 more. So there is an inherent inefficiency that's  
5 going on, and that's what I think I'd like to find  
6 out.

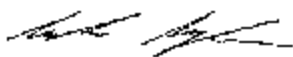
7 CHAIRPERSON JACKSON: Let me thank  
8 you all for coming in. I hope that some of you  
9 who have come down here and have heard all of the  
10 testimony have learned some things and networked  
11 with other people in order to try to make DOE more  
12 accountable and more focused in trying to provide  
13 for the services that our children need so that  
14 they can get the best education they can possibly  
15 get, and that's really what it's about. I want to  
16 thank you all for coming in, and wish you all good  
17 night.

18 JO ANNE SIMON: Thank you very  
19 much. Thank you for your--

20 CHAIRPERSON JACKSON: [Interposing]  
21 The hearing is over at 6:13.  
22

C E R T I F I C A T E

I, Erika Swyler certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature\_ \_\_\_\_\_

Date February 15, 2009