

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON EDUCATION  
COMMITTEE ON FINANCE

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March 1, 2012  
Start: 10:16 a.m.  
Recess: 1:57 p.m.

HELD AT: Committee Room  
250 Broadway, 16th Floor

B E F O R E:  
  
ROBERT JACKSON  
DOMENIC M. RECCHIA, JR.  
Chairpersons

COUNCIL MEMBERS:  
Robert Jackson  
Domenic M. Recchia, Jr.  
Christine C. Quinn  
Charles Barron  
Helen D. Foster  
Daniel R. Garodnick  
G. Oliver Koppell  
Jessica S. Lappin  
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## A P P E A R A N C E S

## COUNCIL MEMBERS:

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Leroy G Comrie, Jr.  
Darlene Mealy  
Diana Reyna  
James S. Oddo  
Mathieu Eugene

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

Veronica Conforme  
Chief Operating Officer  
NYC Department of Education

Michael Tragale  
Chief Financial Officer  
NYC Department of Education

Matt Berlin  
Executive Director of Medicaid  
NYC Department of Education

Scott Stringer  
Borough President  
Manhattan

Michael Mulgrew  
President  
United Federation of Teachers

Ellen McHugh  
City Coalition on Special Education

Maggie Moroff  
Education Policy Coordinator  
Advocates for Children

Oroma H. Mpi  
Senior Staff Attorney  
Education Law Unit  
Legal Services of NYC - Bronx

Dominick A. Fortugno  
Director of School Psychology Program  
Touro College

Jaye Bea Smalley  
Co-chair  
Citywide Council on Special Education

1  
2 CHAIRPERSON JACKSON: Good morning,  
3 and welcome to this joint hearing of the Education  
4 and Finance Committees on the topic of Medicaid  
5 claims for special education related services by  
6 the Department of Education. As you see, the room  
7 is pretty crowded. You heard the sergeant-at-arms  
8 give you advice and instructions on how to proceed  
9 as far as testimony and cell phones and other  
10 things like that. There's an overflow room next  
11 door. So, for example, if you wanted to go next  
12 door, in order to read or eat or something like  
13 that, you can move next door.

14 Let me introduce our colleagues  
15 that are present this morning. At the front table  
16 is Jessica Lappin of Manhattan, our colleague from  
17 Manhattan. Over to my left is Helen Diane Foster  
18 of the Bronx, Margaret Chin of Manhattan. Next to  
19 me, on my right, is our Speaker Christine Quinn of  
20 Manhattan, Domenic Recchia, the chair of the  
21 Finance Committee from Brooklyn, along with Jimmy  
22 Van Bramer of the Borough of Queens and Debi Rose  
23 of Staten Island. And of course, we're joined by  
24 all the appropriate staff of the Education and  
25 Finance Committees, along with other staff members

1  
2 from central staff. We've also been joined by our  
3 colleague from Manhattan, Gale Brewer.

4 Now, we're going to turn to our  
5 colleague, the co-chair of this committee, Domenic  
6 Recchia, the chair of the Finance Committee, to  
7 give his opening remarks. Chair Recchia?

8 CHAIRPERSON RECCHIA: Thank you,  
9 Robert Jackson. Good morning and welcome to  
10 today's Finance Committee hearing. My name is  
11 Domenic M. Recchia, Jr., and I'm the chair of this  
12 wonderful committee. It's a pleasure to be here  
13 with Speaker Quinn and with the Education  
14 Committee, chaired by Robert Jackson.

15 Today, we'll have an oversight  
16 hearing on the Department of Education's system  
17 for collecting Medicaid reimbursements. The  
18 catalyst for this hearing stemmed from many  
19 articles, especially the one in the *New York Times*  
20 released in December that revealed the DOE had  
21 failed to recover tens of millions of dollars in  
22 Medicaid reimbursements for services it provided  
23 to special needs students.

24 According to our investigation in  
25 the Finance Committee, and reading different

1  
2 articles, school-based Medicaid reimbursements  
3 received by the city last year were 60 percent  
4 lower than they were five years ago.

5 More shocking is that between 2006  
6 and 2010, the DOE filed no Medicaid claims for  
7 nursing services, occupational physical therapy,  
8 psychological counseling or transportation. The  
9 other five big cities: Buffalo, Rochester,  
10 Syracuse and Yonkers, with a combined special  
11 education population of less than 10 percent of  
12 New York City's, were reimbursed \$77 million for  
13 their services.

14 The DOE's failure to seek Medicaid  
15 reimbursements has been attributed to an inability  
16 to comply with stricter policy enforcement and new  
17 federal rules that were imposed after the 2005  
18 federal audit which found irregularities in city  
19 and state Medicaid claims from previous years.  
20 The new rules require therapists to now hold  
21 higher levels of certification and districts are  
22 now required to provide annual trainings and more  
23 documentation, such as doctors' orders for  
24 individual claims in order to fill out the  
25 Medicaid reimbursement forms. DOE officials have

1  
2 said the latter requirements make the Medicaid  
3 reimbursement process more cumbersome, especially  
4 with an inadequate number of staff.

5           The purpose of today's hearing is  
6 to learn more about the DOE's current process of  
7 collecting Medicaid reimbursements and whether  
8 sufficient improvements have been made to overcome  
9 past errors. We also want to learn more about how  
10 the new rules affect parents and service providers  
11 as well as the steps DOE has taken to address any  
12 concerns.

13           We have a lot of people who would  
14 like to testify. I want to thank the DOE for  
15 coming here today. I want to thank Veronica and  
16 everyone else you've brought with you. It's a  
17 pleasure to be here with my colleagues. Now, I  
18 turn it over to our wonderful speaker, who is a  
19 leader and is at the forefront, especially as we  
20 begin the budget season. This is very important,  
21 because as you know, we need to collect as much  
22 money as we can so we can service more and do  
23 more. Thank you very much.

24           CHAIRPERSON JACKSON: Thank you,  
25 Chair Recchia. We've also been joined by our

1  
2 colleague Darlene Mealy from Brooklyn New York and  
3 our colleague Mark Weprin from the Borough of  
4 Queens.

5           As I indicated, the topic of  
6 today's joint hearing is Medicaid claims for  
7 special education related service by the  
8 Department of Education. As my colleagues have  
9 said, we're here today because the Department of  
10 Education has forgone hundreds of millions of  
11 dollars in Medicaid revenue since 2005, when  
12 federal audits found irregularities in the  
13 Department of Education's claims.

14           A whistleblower, who eventually  
15 received about \$10 million for uncovering the  
16 improper practices, prompted the federal audits  
17 and joined in a suit against the city and state  
18 for a return of improperly claimed Medicaid  
19 reimbursements. In the result settlement, the  
20 city agreed to repay the federal government \$100  
21 million and the state returned \$331 million. The  
22 settlement also led to new stricter rules for  
23 Medicaid claims.

24           In 2010, the state plan amendment  
25 was approved and the Department of Education was

1  
2 granted the ability to resume Medicaid claiming in  
3 2011. The Department of Education could have  
4 claimed for services delivered to students from  
5 2009 and forward, but meanwhile the special  
6 education budget has increased by nearly \$700  
7 million, or 23 percent since Fiscal Year 2010, and  
8 totals \$3.7 billion this year.

9           At the same time, the Department of  
10 Education has cut school budgets to help offset  
11 this growth. Had the Department of Education  
12 collected Medicaid reimbursements during this  
13 time, they could have used the funds for special  
14 education and taken less money out of school  
15 budgets.

16           As of February 2012, the DOE has  
17 not filed a single claim for the ten services  
18 covered by the new state plan. According to a  
19 spokesperson, the DOE did not file Medicaid claims  
20 after the new rules were announced because the  
21 reimbursement process had become more cumbersome  
22 and, quote, "the Department lacked the staff and  
23 the training to handle the more demanding  
24 requirements." Well, welcome to the real world.  
25 This is totally unacceptable by anyone's standard.

1  
2                   The DOE has been on notice since  
3 2005 that they had to improve their documentation  
4 and claim procedures that they should have been  
5 more prepared by now. In fact, the Department of  
6 Education has continued to make mistakes on the  
7 few Medicaid claims that they have submitted.

8                   An April 2011 state audit found  
9 that many of the city's 2009 claims were missing  
10 documentation or had incorrect dates for services  
11 and the Department of Education was forced to  
12 return \$82,000.

13                   As recently as September 2011, a  
14 letter was sent by the State Health Department  
15 stating the Department of Education officials were  
16 still submitting some claims using forms that were  
17 no longer accepted.

18                   In a time of fiscal austerity, when  
19 New York City schools are suffering, after years  
20 of budget cuts, I'm outraged. I'm going to say  
21 that nice and level-headedly because if I really  
22 wanted to say it as far as my outrage, I would be  
23 screaming right now. I'm outraged that the  
24 Department of Education has not done their job and  
25 has not done more to claim possibly hundreds of

1  
2 millions of dollars in Medicaid claims for  
3 services already paid for with city funds.

4           The question is who is accountable  
5 for this? What changes has the Department of  
6 Education made since the errors were uncovered in  
7 2005 to improve receive collection for Medicaid  
8 reimbursement? We know DOE has made many other  
9 changes regarding special education in the  
10 intervening years. For instance, we know that DOE  
11 has hired a lot of new attorneys to challenge all  
12 of the requests by parents on placement of their  
13 children in contract schools, when there isn't an  
14 appropriate public school program in place, making  
15 it harder for those children to get the needed  
16 services.

17           We also know that DOE is only  
18 planning to file claims for four out of the ten  
19 services that are eligible for Medicaid  
20 reimbursement. What about the other six services  
21 and the potential revenue that could be generated  
22 from those other six services? I ask that  
23 question aloud and I sure hope DOE has some  
24 answers today.

25           The committee has heard concerns

1  
2 related to DOE's effort to claim Medicaid and the  
3 new computerization special education data system,  
4 SESIS, which is Special Education Student  
5 Information System. Although SESIS should make it  
6 easier to collect the data and documentation  
7 needed to file Medicaid claims, we've heard that  
8 the system often crashes and is plagued with a  
9 host of other technical problems.

10 Staff who provide services to  
11 students also complain that there is no time set  
12 aside in the school day for them to enter the data  
13 into the program. They are prohibited from  
14 entering notes during sessions with students.

15 Another concern we've heard from  
16 advocates involved is parent consent, a  
17 requirement under the Medicaid reimbursement.  
18 Advocates charge that DOE does not provide  
19 adequate information to parents to enable them to  
20 make an informed decision about whether or not to  
21 allow the DOE to bill Medicaid for their child's  
22 services.

23 There are also problems after  
24 parental consent is given, as Medicaid may deny  
25 claims for outside health providers for students

1  
2 who are receiving services in school. This is not  
3 an easy process; it's pretty complex. But  
4 considering the fact that we have so many  
5 employees to do the job, we should be able to do  
6 it, meaning the Department of Education.

7 In addition to concerns directly  
8 relating to Medicaid reimbursement, we've also  
9 heard many other concerns about special education,  
10 such as students not receiving all of the services  
11 mandated on their IEPs. I would like to know  
12 whether increasing Medicaid revenue will result in  
13 improved service delivery, in light of a recent  
14 audit by the Comptroller's Office, which revealed  
15 that as much as 25 percent of related services are  
16 not currently being provided to students. Totally  
17 unacceptable.

18 I also have questions regarding  
19 DOE's strategy of hiring additional attorneys to  
20 challenge all placements in contract schools every  
21 year, as well as DOE's phase-in of special  
22 education reform. However, today's hearing is to  
23 discuss only DOE's Medicaid claims. I just want  
24 to say that we hope to be able to hold another  
25 hearing on special education later this year to

1  
2 address some of these other concerns which many  
3 people have.

4           Today's hearing will provide the  
5 committees with an opportunity to examine changes  
6 incorporated in DOE's Medicaid compliance plan and  
7 whether sufficient improvements have been made to  
8 overcome past errors. As budget time approaches,  
9 the committees are particularly interested in  
10 reviewing projected increases in Medicaid  
11 reimbursements, how the Department of Education  
12 arrived at these new estimates and what they are  
13 doing to achieve these estimates.

14           I'd like to remind everyone, as the  
15 sergeant-at-arms said, that if you wish to testify  
16 today, you must fill out a witness slip, which is  
17 located at the desk at the sergeant-at-arms. And  
18 to allow as many people as possible to testify,  
19 testimony will be limited to three minutes and you  
20 will be on the clock.

21           Now, I'd like to turn to our  
22 Speaker, Christine Quinn.

23           SPEAKER QUINN: Thank you very  
24 much. I want to thank Chairs Recchia and Jackson  
25 for holding this hearing and the staffs to the

1  
2 Finance Committee and Finance Division and  
3 Education Committee for their work on this  
4 hearing.

5           Look, everybody knows we are in a  
6 time where we have, still, because of the impacts  
7 of the economy, have more needs than we have  
8 revenue. That's a fact. We're all trying to get  
9 as much done as we can with less as possible.  
10 That puts us in a position where we have to make  
11 decisions often in government we don't want to  
12 make, make tough decisions: do we fund this or do  
13 we fund that? Do we keep this good program going  
14 or that good program going? We get that.

15           But what I can't understand or get  
16 is why, if there is a revenue stream available to  
17 us in the City of New York, we aren't doing  
18 everything we can as the City of New York to get  
19 every dollar we can out of that revenue stream.  
20 And in fact, the issue of greater reimbursement  
21 for Medicaid claims was something that was raised  
22 in conversation last year during the budget  
23 process. And the response that we got back in the  
24 Council was that there was not the belief that any  
25 more money could be gotten.

1  
2                   Yet, I think it's important to  
3 note, and thankfully so, that in the November plan  
4 there is, I think, about \$100 million more in  
5 Medicaid reimbursement in that plan. I was  
6 thrilled to see that money in the November plan  
7 because it prevented us from having to make bad  
8 choices. But it made me think: what the heck  
9 happened in November that couldn't have happened  
10 in June? What was the tremendous revelation or  
11 thing that was found out within the Department of  
12 Education that enabled DOE to have that \$100  
13 million then and not before?

14                   Now, maybe it was that you didn't  
15 know for sure it was \$100 million. But nobody  
16 ever said we think there's a greater potential  
17 there; we think there can get more, when we in the  
18 Council raised: "Isn't there ability to get more  
19 money for Medicaid?"

20                   The lack of having these funds puts  
21 us in a position where we have to make tough  
22 choices. All of us collectively worked incredibly  
23 hard last spring to prevent the layoff of 4,100  
24 plus school teachers, and that was a great  
25 victory. It wasn't a victory that there was the

1  
2 layoff of 656 teacher aides. Had these funds,  
3 even the potential of these funds been recognized  
4 earlier, that 656 aides was about--correct me if  
5 I'm wrong--\$20 million or \$25 million, less than  
6 \$100 million.

7           If we knew they might even have  
8 that money, we could have had a conversation with  
9 the union that represented those 656 people and  
10 said we're working on it. We're trying. We think  
11 we could get it, will you work with us. That  
12 didn't happen.

13           It's important to note in this  
14 concept that we're not the first people to raise  
15 this. In fact, Borough President Scott Stringer  
16 deserves credit for having raised these issues  
17 early on. *The New York Times* deserves credit for  
18 raising these issues early on. In a December 28,  
19 2011 *New York Times* story, it was noted that two-  
20 thirds of the 168,000 New York City students who  
21 need special education services qualify for  
22 Medicaid. So if you take that number and you have  
23 some sense, through their individual plans and  
24 other things, of what type of services they need,  
25 and then you overlay the new legal requirements,

1  
2 as Robert referenced, what's the number? What's  
3 the amount of money we could get? Cut a little  
4 bit off of it because stuff always gets--you know,  
5 you never get as much as you want. What's that  
6 number?

7           It's also noteworthy that the *Times*  
8 reported that from 2007 to 2009, only 9,000 of the  
9 168,000 special needs students were properly  
10 documented. Of those 9,000, almost 20 percent of  
11 the \$10 million in claims filed were rejected for  
12 not meeting the new criteria.

13           So, my question is do we fully  
14 understand the new criteria? Do we understand  
15 what we have to do? Do we have a plan in place to  
16 actually engage parents to make sure that they  
17 understand, that they're doing the right  
18 paperwork, that DOE is getting the written consent  
19 that they need to get from parents?

20           Based on that, what I believe would  
21 be a new or expanded plan, how do we get from two-  
22 thirds all the way there? And when we get all the  
23 way there, what is the amount of money that we can  
24 know on a consistent basis will be coming in, so  
25 we can budget appropriately and also get these

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children the services they deserve.

The last place I want to leave any money is Washington. Let me be perfectly clear. We need it here and we have clear uses for it.

I also want to be clear that I understand this is complicated. It isn't easy always to get the documentation you need. It isn't easy to get things reimbursed. Ask anybody who's ever gone to the doctor. But there are problems to which we have no solutions. Getting more Medicaid money in is a problem, it is a challenge, but there is a solution if well admit the resource is there, admit we collectively haven't done as well as we should and commit to collectively doing better. That's what we want today to be about.

We're all clear. You're clear we're not happy. You're clear we think you've not done a good enough job. You're clear we think you've left money on the table. Let's figure out how we're going to fix it, how we're going to fix it quickly so we can get this money in for this year and next year and how we can get the children the services they deserve, they qualify for that

1  
2 they and their families need. Thank you very  
3 much.

4 CHAIRPERSON JACKSON: Well, thank  
5 you Speaker Quinn. Clearly, you speak on behalf  
6 of all of us regarding the situation as to how  
7 much money we could have possibly gotten last  
8 year, knowing that the City of New York laid off  
9 hundreds of school aides, represented by DC37, and  
10 we could have avoided that, if in fact we would  
11 have recouped all of the money we were entitled to  
12 receive.

13 We have been joined by our  
14 colleagues Diana Reyna from Brooklyn, Oliver  
15 Koppell of the Bronx. They're both in front,  
16 along with our colleague Charles Barron of  
17 Brooklyn and our colleague standing up near the  
18 cameraman, Jimmy Oddo from Staten Island, the  
19 Minority Leader, and Vincent Ignizio from Staten  
20 Island, sitting over there also.

21 Now, we're going to turn to the  
22 Department of Education to hear their testimony.  
23 We're going to ask all of them to introduce  
24 themselves and what their positions are with the  
25 Department of Education. Thank you very much.

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VERONICA CONFORME: Thank you.

Good morning, Speaker Quinn, Chair Jackson and Recchia and all of the members of the Education and Finance Committee here today. Thank you for inviting me to testify about the Department's Medicaid claim for special education and related services. I am joined here today by Michael Tragale, the Department's Chief Financial Officer and--

CHAIRPERSON JACKSON: [interposing]

Where's Michael? Where's he at? Okay, I just wanted to see where you were.

VERONICA CONFORME: And Matt Berlin, our Executive Director of Medicaid.

I would like to begin by reiterating the Department's commitment to addressing all our outstanding issues associated with our Medicaid claims, and increasing our reimbursements from the federal government. We recognize our current fiscal reality and we are working hard to implement an aggressive plan that provides a long-term sustainable solution to our students and schools and receive the money which they are entitled to.

1  
2           Before I talk about the work we  
3 have undertaken, I'd like to provide some  
4 background information about Medicaid and the  
5 reimbursement process in New York State and the  
6 City and put the challenges in context.

7           As you know, under the Individuals  
8 with Disabilities Education Act, or IDEA, public  
9 schools are required to provide children with  
10 disabilities with a free and appropriate public  
11 education including special education and related  
12 services according to the child's Individualized  
13 Education Plan, or IEP.

14           Related services are defined as  
15 developmental, corrective or other supportive  
16 services to assist students in meeting the  
17 objectives of his or her educational program.

18           The goal for students with IEPs is  
19 to be involved in the general education  
20 curriculum, experience success in their classroom  
21 setting, and be educated with non-disabled peers.  
22 Some examples of related services include speech  
23 therapy, physical therapy and occupational  
24 therapy.

25           While states and, in turn, school

1  
2 districts receive some federal aid under IDEA,  
3 they are otherwise responsible for the costs of  
4 special education and related services. When  
5 Congress passed IDEA, they expressed a commitment  
6 to providing states with funding to cover up to 40  
7 percent of the additional costs of providing  
8 services to students with special needs. To date,  
9 despite some attempts in the budgets proposed in  
10 recent years, that commitment has not been honored  
11 and the federal contributions have remained around  
12 18 percent nationally.

13 In an effort to ease the financial  
14 burden felt by the state, the school districts of  
15 fulfilling the requirements of IDEA, Congress  
16 passed the Medicaid Catastrophic Coverage Act of  
17 1988. Through this legislation, states are able  
18 to seek reimbursements through Medicaid for  
19 services in students' IEP, provided that they are  
20 eligible for the Medicaid program.

21 Here is the challenge: Medicaid is  
22 based on a medical service model while IDEA is  
23 based on an educational service model. Even with  
24 guidance from the federal government, many  
25 districts, including New York City, have

1  
2 encountered difficulties with the complex and  
3 often contradictory rules associated with the  
4 reimbursement process which led to an extensive  
5 audit of New York State's claims and  
6 reimbursements. Not specifically New York City.  
7 New York City was part of that, but New York  
8 State's.

9           In 2001, the Federal Department of  
10 Health and Human Services commenced an audit of  
11 claims submitted by New York State between 1993  
12 and 2001. Released in 2005, the audit found many  
13 claims did not comply with applicable  
14 requirements. Subsequently, the State Department  
15 of Health opened a corrective action review of all  
16 Medicaid services in order to ensure the claims  
17 were meeting the new federal requirements.

18           After the review was completed in  
19 September of 2005, school districts were  
20 instructed by the State to stop seeking Medicaid  
21 reimbursements for all services except targeted  
22 case management, which refers to the time devoted  
23 to creating a student's IEP and coordinating  
24 access to the necessary care and services  
25 appropriate to the student's needs.

1  
2                   When the State reach a settlement,  
3 with the Department of Justice in June 2009, the  
4 New York State Department of Health was tasked  
5 with creating a new State Plan Amendment and  
6 procedures for districts to follow, in submitting  
7 new Medicaid claims. In order to start billing  
8 for additional services beyond targeted case  
9 management, the Department of Education would have  
10 to wait for the completion of the new State plan,  
11 which eventually was approved in April 2010. The  
12 new State requirements are significantly more  
13 complex for Medicaid reimbursement regulations and  
14 also require more specific documentation.

15                   The new State plan and requirements  
16 move further towards a medical model, encounter-  
17 based model rather than an educational model. The  
18 obligation under the new State plan has proven to  
19 be incredibly burdensome and has required us to  
20 build systems similar to those used in hospitals  
21 and healthcare institutions.

22                   Moreover, these requirements were  
23 made retroactive and imposed difficulties because  
24 many of these requirements cannot be satisfied  
25 after the fact. I'd like to provide some examples

1  
2 of the changes between the previous plan and the  
3 new State plan to highlight the challenges we  
4 face.

5 Under the previous plan, in order  
6 for claims to be in compliance for reimbursement,  
7 speech, occupational, and physical therapists are  
8 required to have a current license and  
9 registration. Under the new plan, in addition to  
10 the previous requirements, they must undergo  
11 annual compliance training; they must obtain a  
12 National Provider Identifier number; and physical  
13 therapists must have graduated from an accredited  
14 program by the Commission on Accreditation in  
15 Physical Therapy and Education.

16 State and federal regulations only  
17 allow school districts to bill for services  
18 provided under the direction of a Speech Language  
19 Pathologist. While all of our speech providers  
20 meet the requirements of a Speech Teacher  
21 licensing and credentialing, under the State, 40  
22 percent--

23 [Background noise]

24 CHAIRPERSON JACKSON: Veronica,  
25 wait a second please.

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[PA Announcement]

VERONICA CONFORME: Is it a fire?

SPEAKER QUINN: There we go.

CHAIRPERSON JACKSON: Okay, go  
ahead please.

SPEAKER QUINN: It would have been  
funny if we were the Fire Committee though, right?

[Laughter]

VERONICA CONFORME: While all of  
our speech providers meet speech teacher licensing  
and credential requirements under the state  
regulations, 40 percent of our speech providers do  
not have a speech language pathologist licenses  
because none of our providers need it as a  
condition of hiring or service. The Department's  
non-SLP certified teachers are also not typically  
directed by an SLP in a way that would allow these  
services to be billable. Additionally, the SLP  
license is not a credential addressed in our  
contract with our teachers union.

In terms of service delivery,  
previously a provider would track a student's  
daily attendance via a monthly attendance card and  
authorize it with their signature and credentials.

1  
2 Under the current plan, we are now required to  
3 document each individual session and keep detailed  
4 notes about the types of activities performed  
5 during the session. Some of these include: the  
6 time and duration of the session, the location of  
7 the session, whether it was group or individual  
8 therapy, the progress made under the session, the  
9 provider signature, credentials, their National  
10 Provider Identification number, a Current  
11 Procedural Terminology CTP code and an ICD-9  
12 diagnosis code.

13                   With respect to billing, we must  
14 now claim for each individual session or  
15 encounter. Previously, we received monthly rates  
16 if a student received at least two related  
17 services sessions that month. Now, we must submit  
18 a bill for each student and every time they  
19 receive the services. However, the notes on each  
20 session that I described indicate that we have--if  
21 they indicate that we have not met all of the  
22 requirements, that session is not be eligible for  
23 reimbursement. For example, if a session was  
24 supposed to be group therapy, but three of the  
25 four children did not show up, that disqualifies

1  
2 the session from being reimbursed even for one  
3 student.

4 This has additional impacts in  
5 terms of workflow as well. The number of claims  
6 we are submitting on a monthly basis has grown  
7 exponentially. For example, on average, we would  
8 previously submit approximately 30,000 claims for  
9 speech services. Under the new rules we are  
10 required to claim based on the number of  
11 encounters a student actually has, this increases  
12 the count to 250,000 claims we will be submitting  
13 per month, more than two million a year.

14 These are just some of the glaring  
15 examples of the changes between the previous and  
16 current rules. Again, when the new state plan was  
17 released, the requirements were applicable to both  
18 future claims and retroactive claims in order to  
19 receive reimbursement for services. This meant  
20 that the vast majority of our services from  
21 previous years would not meet the eligibility  
22 requirements for reimbursement.

23 In addition, New York State has  
24 determined that targeted case management are no  
25 longer eligible for reimbursement, the process of

1  
2 putting together the IEP. This alone represents  
3 an annual loss of \$37 million dollars.

4 In a system as large as ours, with  
5 approximately 175,000 students with IEPs, meeting  
6 the new state requirement has been a significant  
7 amount of investment in order to build a long-term  
8 solution. Last September, we hired Matt Berlin as  
9 the Executive Director of Medicaid to oversee this  
10 work. Previously, several people had aspects of  
11 Medicaid claiming portfolio under their job. The  
12 changes that we are undertaking in order to meet  
13 the new state requirements, we felt it should be  
14 overseen by one person whose focus is solely on  
15 streamlining the workflow and coordinating the  
16 cross functional responsibilities.

17 We also hired a Medicaid Compliance  
18 Officer in May of 2010, instituted a compliance  
19 program and trained thousands of staff on Medicaid  
20 compliance. Last year, year one of the School  
21 Supportive Health Services Program Medicaid  
22 Compliance Training, we trained 13,000 employees,  
23 including our service providers, Occupational  
24 Therapists, Physical Therapists, Speech Therapists  
25 and their supervisors, our non-DOE school partners

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and finance staff.

This year, thus far, over 9,000 employees have participated in the year two training. We hired 20 part-time physicians who create orders for the services required in students with IEPs, and we are working with the New York City's Department of Health and Mental Hygiene to computerize this process using Automated School Health Records.

We have started building a claim generation system that will gather data on providers, students, and services. We continue to train teachers and providers on the use of the SESIS, the Special Education Student Information System, through which notes on the sessions can be logged and provided schools with thousands of additional computers so that providers can record their services.

We modified our contracts with specialized schools, and have a plan to capture service data from these providers. We have worked with the New York City HRA to screen our therapists against exclusion lists and double-check eligibility for claiming services provided

1  
2 by these therapists. We are also in discussions  
3 with New York City's Health and Hospitals  
4 Corporation about additional support in getting  
5 orders from doctors within their system. We have  
6 built a system to distribute and recover 180,000  
7 parent consent release letters every year without  
8 hiring an additional person.

9           Despite all of these steps we have  
10 taken, we are aware that there are challenges that  
11 must be addressed. We know some teachers have  
12 experienced difficulty in logging into and  
13 entering data into SESIS. Obtaining a consent  
14 release annually from every parent of students  
15 with IEPs that are Medicaid eligible and obtaining  
16 medical orders for every service a child receives  
17 are enormous logistical efforts.

18           We also need the UFT to work with  
19 us in fulfilling the new requirements and record  
20 the critical information about the services they  
21 are delivering. We have been in discussions with  
22 the UFT since last spring about the new  
23 requirements and the supports that we will need to  
24 begin to submit claims again. We have sent the  
25 UFT what we believe is a fair proposal with

1  
2 regards to identifying additional time their  
3 members will need to complete the reporting. We  
4 look forward to hearing from them and remain  
5 hopeful that we will reach an agreement so that we  
6 can submit claims for the services we have already  
7 provided.

8           After years of federal and state-  
9 induced gridlock, I'm happy to report that we have  
10 begun making notable progress, and have claimed  
11 \$28 million in Medicaid reimbursements this fiscal  
12 year. While we still have a way to go to meet the  
13 targeted amount of \$117 million, we are actively  
14 working to claim additional dollars every day, and  
15 continue to implement an aggressive system-wide  
16 claiming system and protocols, and we are seeking  
17 the cooperation of the UFT and other partners to  
18 allow us to realize even more revenues.

19           As I said at the outset, we are  
20 committed not just to providing the services our  
21 students need, but equally committed to finding  
22 additional revenue sources in this time of  
23 continuing fiscal uncertainty. With the efforts I  
24 have described and the cooperation of our parents  
25 and labor partners, we are optimistic that we will

1  
2 reach our targeted goal of increasing Medicaid  
3 reimbursements. Thank you for your time and  
4 attention, and I'm happy to take your questions.

5 CHAIRPERSON JACKSON: Well, thank  
6 you. We've been joined by additional colleagues  
7 of ours. Karen Koslowitz is up front to our  
8 right. Steve Levin is next to her. Al Vann is up  
9 front to our left. Danny Dromm, where's Danny?

10 CHAIRPERSON RECCHIA: To the left  
11 of Al.

12 CHAIRPERSON JACKSON: Next to Al  
13 Vann. Fernando Cabrera of the Bronx is here.  
14 I've mentioned Oliver Koppell earlier. With that,  
15 let me turn it over to the co-chair of this  
16 particular joint hearing, chair of Finance  
17 Committee, Domenic Recchia.

18 CHAIRPERSON RECCHIA: Thank you,  
19 Chair Jackson. Good morning, Ms. Conforme. I'm  
20 going to start off. I'm just going to ask a few  
21 questions then turn it over to my colleagues. But  
22 I just want to start off by how the process  
23 begins. We're going to start off there.

24 So first, we've been supplied with,  
25 by your office, consent to release information

1  
2 Medicaid reimbursement form. Now, whose job is it  
3 to get this form signed by the parent?

4 VERONICA CONFORME: Michael?

5 CHAIRPERSON RECCHIA: Just identify  
6 yourself.

7 CHAIRPERSON JACKSON: Michael, just  
8 identify yourself and your title.

9 MICHAEL TRAGALE: Mike Tragale,  
10 CFO. So in terms of the form, we actually built  
11 within SESIS, school staff could provide that form  
12 to the parent to sign off and can upload that form  
13 so that it's electronically stored. That's going  
14 to help us cut down on any audit issues in the  
15 future.

16 The SESIS system, as Ms. Conforme  
17 described, was built to capture all of the  
18 information from the encounters. When a service  
19 provider is working with a child, all of those  
20 onerous new requirements that were included in the  
21 new state plan would now be captured  
22 electronically. As I said, it's going to reduce  
23 any audit issues in the future, once we get this  
24 up and running.

25 There's a lot of staff that assist

1  
2 us in terms of managing the consent process. We  
3 have network staff that are involved--

4 CHAIRPERSON RECCHIA: [interposing]  
5 We're well aware of all that.

6 MICHAEL TRAGALE: --as well as many  
7 other staff.

8 VERONICA CONFORME: But ultimately,  
9 let me just be direct, it's a school-based  
10 function. It's happens at the school, with the  
11 IEP team involved and the principal, mostly by the  
12 principal, is responsible for this.

13 CHAIRPERSON RECCHIA: Okay. Now,  
14 they get this form and no doctor has to sign onto  
15 this form, correct? Okay. So the school's  
16 obligation is to get this. If they can't get this  
17 filled out, does the child still receive services  
18 or they can't receive services until this is  
19 filled out?

20 VERONICA CONFORME: No, absolutely,  
21 we do not restrict services for any of the  
22 documentation.

23 CHAIRPERSON RECCHIA: Okay. Now,  
24 once they start getting services, if the principal  
25 can't get this filled out for some reason, is the

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principal penalized?

VERONICA CONFORME: No.

CHAIRPERSON RECCHIA: Are you sure about that?

VERONICA CONFORME: Yes.

CHAIRPERSON RECCHIA: Then why are principals given points off their compliance points and their ratings are lowered because they cannot get these filled out?

VERONICA CONFORME: I'm going to have Matt address that issue.

MATT BERLIN: So that was part of an earlier compliance plan but we threw that out of the compliance this year.

CHAIRPERSON RECCHIA: You threw it out? Where in writing does it say that?

MATT BERLIN: I don't know. I don't have that in writing but I can get that for you.

VERONICA CONFORME: We can get that we removed it from the compliance plan.

CHAIRPERSON RECCHIA: Okay. As of last night, in talking with over 25 principals throughout New York City, they were not aware of

1  
2 this. What happens, the pressure gets put on the  
3 principal, the pressure gets put on the teachers,  
4 the pressure gets put on everybody and all of the  
5 sudden these teachers are getting pressured,  
6 evaluated on their career based on this rating.  
7 It's a problem and we have to get the message out  
8 that that's not the way it is anymore.

9 Listen, we want to help you get  
10 these forms filled out. Now, do you have this in  
11 all different languages?

12 VERONICA CONFORME: Yes.

13 CHAIRPERSON RECCHIA: Okay. Now,  
14 my next question, Mr. Berlin was talking about  
15 SESIS. Since it's so important, as you stated,  
16 correct?

17 MATT BERLIN: Yes.

18 CHAIRPERSON RECCHIA: Okay.  
19 Schools today have OTs, PTs, speech therapists.  
20 Does every one of those therapists have their own  
21 computer?

22 VERONICA CONFORME: There are  
23 computers in the schools. As part of the SESIS  
24 rollout, we distributed one additional computer to  
25 the school.

1  
2 CHAIRPERSON RECCHIA: Okay. We are  
3 hearing from therapists across the city, they love  
4 teaching children, they love servicing children  
5 but criteria have been put in place. Now, they  
6 are required, the therapists, after they treat the  
7 child, they have five minutes to input everything  
8 into the computer. They don't have their own  
9 computer. You have several people sharing a  
10 computer. They can't get online to input this  
11 stuff. But yet, the therapists, they are under  
12 immense pressure because they cannot get on and  
13 they are required to do this in five minutes.

14 In addition to that, the average  
15 therapists see between seven and eight, mostly  
16 eight students a day. But now they have to input  
17 everything five minutes after they treat. So some  
18 therapists in schools don't have enough time. So  
19 there is a problem. How are we going to address  
20 this?

21 VERONICA CONFORME: We've actually  
22 offered, put a proposal in front of the UFT to  
23 offer and provide additional OT and PT time and  
24 additional computers for the entering of the  
25 services.

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2 CHAIRPERSON RECCHIA: So is there  
3 money in the budget to give more computers to the  
4 OTs, PTs and speech therapists?

5 VERONICA CONFORME: We think that  
6 claiming Medicaid is that important that we need  
7 to prioritize buying computers and ensuring that  
8 people have access to them.

9 CHAIRPERSON RECCHIA: So is there a  
10 plan? How are we going to go about this? You  
11 know, is there money in the budget to do this for  
12 next year?

13 VERONICA CONFORME: I mean from our  
14 perspective, if we can claim even \$100 million  
15 then we would take some of that. Some of the  
16 expenses will come out of that same pot of money.  
17 It's a return on investment if we take some of  
18 those funds in anticipation of receiving them and  
19 invest in computers.

20 CHAIRPERSON RECCHIA: Because we  
21 have all these OTs and PTs taking the work home at  
22 night and then at night they're all trying to go  
23 on the computer at one time and it's overloading.

24 VERONICA CONFORME: No, I--

25 CHAIRPERSON RECCHIA: [interposing]

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It's a big problem.

VERONICA CONFORME: Yes.

CHAIRPERSON RECCHIA: And then these therapists are getting penalized and getting pressured and they can't do the work in school. They don't have the supplies they need in school. They don't have ink for the printers. They don't have paper. And then they ask the principal and then the principal takes it out "I don't have money." It's a serious problem.

VERONICA CONFORME: We understand that there are some challenges at the school level--

CHAIRPERSON RECCHIA: [interposing] No, no, this is not a challenge, this is a problem.

VERONICA CONFORME: First of all--

CHAIRPERSON RECCHIA: [interposing] In mean and that's why we have to sit down and figure out a plan.

VERONICA CONFORME: No, I understand but--

CHAIRPERSON RECCHIA: [interposing] I just want you to recognize that there's a

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problem.

VERONICA CONFORME: I also want to say that many of our therapists, this work is getting done every day. We have over a million entries--sorry, over 9 million entries associated with the encounters. So people are doing it.

CHAIRPERSON RECCHIA: Yeah, they're doing it. You know when? When the teacher who has a family goes home at night, puts the kids to sleep and spends hours on the computer, has to wait an hour to get on the computer, has to input all the work, stays up until 1:00 in the morning. Does anybody look to see what time all this stuff is getting inputted? I'm telling you right now it's not getting inputted during the school day. It is not getting inputted during the school day. What does that tell you? That we have a problem here.

I hear it. We go out there and we speak to these people. We speak to everyone involved and they're saying please help us. Help us get computers. Help us to figure out a mechanism how we could do this work during the day but we want to treat our children. Then they're

1  
2 also responsible for doing evaluations besides the  
3 treatment, the evaluations that they have to do.

4 I think I made my point.

5 So we understand that changes made  
6 it more difficult to submit claims. But why is it  
7 that it has taken, you know, so long for us to  
8 implement this when Rochester, Buffalo, Syracuse  
9 and Yonkers have already been able to submit  
10 claims and get reimbursed?

11 VERONICA CONFORME: Right. So  
12 definitely we are a bigger system with many more  
13 schools.

14 CHAIRPERSON JACKSON: And many more  
15 employees too.

16 VERONICA CONFORME: I'll have Matt  
17 address that question.

18 MATT BERLIN: So the size of New  
19 York City's school system compared to Buffalo,  
20 Rochester, Syracuse and Yonkers, has made it  
21 harder to implement these kinds of changes.  
22 Buffalo is the next largest school district in the  
23 state, and they have--

24 CHAIRPERSON JACKSON: [interposing]  
25 Less than 100,000 school children.

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2 MATT BERLIN: Right. So they have  
3 123 speech therapists. We have 2,200. They have  
4 eight occupational therapists. We have over 600.  
5 So our ability to issue guidance and changes in  
6 our systems has to be in writing and it has to be  
7 systematic. Whereas, in those jurisdictions, and  
8 we talked to our colleagues in other  
9 jurisdictions. They simply have meetings and ask  
10 them to implement new systems. So we've had to  
11 put things in writing and we've had to develop  
12 systems.

13 In addition, we've had to capture  
14 data electronically. So we've had to build a new  
15 electronic data capture system. We've also had to  
16 train--

17 CHAIRPERSON JACKSON: [interposing]  
18 So do they. Don't they have to input that in the  
19 same way, right?

20 MATT BERLIN: They do all of their  
21 data--

22 CHAIRPERSON JACKSON: [interposing]  
23 They're not doing it by hand are they?

24 MATT BERLIN: No, they do it on  
25 paper.

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2 VERONICA CONFORME: No, but they  
3 are on paper.

4 MATT BERLIN: So they actually have  
5 paper forms and they also--

6 CHAIRPERSON JACKSON: [interposing]  
7 Okay. But isn't the computer easier, because you  
8 can analyze the information electronically?

9 MATT BERLIN: We think over the  
10 long term it will be easier for us but--

11 CHAIRPERSON JACKSON: [interposing]  
12 Matt, I'm just trying to synthesize what you're  
13 saying. You're saying because we're larger, we're  
14 more complex that we're losing a lot? Is that  
15 what you're saying?

16 MATT BERLIN: If I can--

17 CHAIRPERSON JACKSON: [interposing]  
18 I know you're the chief financial officer and I'm  
19 not going to say that he has to answer or you have  
20 to answer. But what we hear you're saying is that  
21 because we're larger we're not going to capture  
22 the reimbursement as much and it's too complicated  
23 to do.

24 VERONICA CONFORME: No, we are  
25 certainly going after the reimbursements.

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2 CHAIRPERSON JACKSON: Okay, so what  
3 are you saying? I'm trying to understand what was  
4 Matt saying there?

5 MATT BERLIN: Just to put this in  
6 perspective, as we said, the size and scale is a  
7 big issue. In terms of number of schools, it's 60  
8 schools versus 1,700 schools. Now, the other  
9 piece that you have to keep in mind, Buffalo is on  
10 a paper system. The paper system that they're  
11 using is exactly what got us into trouble with the  
12 audit originally.

13 CHAIRPERSON JACKSON: Okay.

14 MATT BERLIN: When the '93 to 2011  
15 audit, most of that was in reference to documents  
16 missing information as well as being unable to  
17 find information. So now, since that's stored in  
18 SESIS, we won't have those problems.

19 The other important thing is  
20 student mobility within the city is much greater  
21 in terms of the size--

22 CHAIRPERSON JACKSON: [interposing]  
23 There's student mobility everywhere.

24 MATT BERLIN: --and scale.

25 CHAIRPERSON JACKSON: Come on.

1  
2 These are all things that are known. These are  
3 not unknown variables. These things are already  
4 there. So the mobility in the system has always  
5 been there. The bottom line is the city's  
6 education budget, in total, is \$24 billion. It's  
7 more than one-third of the entire city's budget.  
8 From an expanse point of view, you take out debt  
9 service and pension, \$19.5 billion. Veronica, you  
10 know the numbers.

11 VERONICA CONFORME: That's right.

12 CHAIRPERSON JACKSON: So you can  
13 hire thousands of employees. You can hire them  
14 just like that. I say you can, you know why?  
15 Because if all of the money we lost, if we go  
16 after it, whatever employees you need we'd be able  
17 to pay those employees and still have money to put  
18 back in the school. There's no excuse.

19 VERONICA CONFORME: Right. What we  
20 are saying is that we are required to build a  
21 system because of the size. Not that we shouldn't  
22 be doing it or that we can't be doing it.

23 CHAIRPERSON JACKSON: Right, but  
24 we--

25 VERONICA CONFORME: [interposing]

1  
2 In order to do it right, we have to actually build  
3 a system because we can't use paper. That was the  
4 point we're making.

5 CHAIRPERSON JACKSON: And that's  
6 fine. I understand that. But this is nothing  
7 new. And going back, some of the claims from 1990  
8 whatever to 2001, I understand and we all  
9 understand that Mayor Mike Bloomberg came into the  
10 office in 2002. So it was with the Giuliani  
11 administration and whoever was before that. But  
12 that's one thing.

13 But you knew when the lawsuits and  
14 putting everything on hold and 2005, '06, '07,  
15 '08, '09, '10, '11, now we're in 2012. So it's  
16 not like you didn't know. It's not like you  
17 didn't have the opportunity to do everything.  
18 When I say "you" the Department of Education, the  
19 former chancellors before Dennis Walcott and  
20 before Kathy Black and before Joel Klein and  
21 before and before, and in essence, when I say  
22 "you", the Department of Education has known this  
23 for a long time. And the excuses that you're  
24 giving are not acceptable.

25 VERONICA CONFORME: Right.

1  
2 CHAIRPERSON JACKSON: Because, let  
3 me just say, Veronica, and I'll let you continue.  
4 If this was private industry, many or all of you  
5 may be fired right now. I'm telling you. They  
6 would not stand for it at all. The buck stops  
7 with someone at the Department of Education.  
8 Private industry would not tolerate this. You all  
9 would be gone.

10 I'm saying to you, as the chair of  
11 the Education Committee, not recouping all of  
12 these tens of millions or hundreds of millions of  
13 dollars is totally unacceptable. In fact, I wish  
14 that I could line up all of the employees that  
15 were laid off in the Department of Education and  
16 then you tell them that if we would recouped this  
17 money for Medicaid, all of them could still  
18 possibly have their job. That's a shame. I'm  
19 sorry; I just had to say that. That's a shame.

20 Domenic, I'm sorry.

21 CHAIRPERSON RECCHIA: All right, I  
22 just have one or two questions. I know there are  
23 a lot of questions, you know.

24 So I just want to be clear that  
25 we're going to follow up with this computer issue

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for other schools.

VERONICA CONFORME: Yes,  
absolutely.

CHAIRPERSON RECCHIA: I mean it's  
very important. Now, on the computer system, we  
are hearing that when the therapist has to put in  
the notes from the session, it's very, very  
difficult and that component is not working. Have  
you heard that?

VERONICA CONFORME: We've heard  
that there are some problems logging in sometimes,  
that there are some problems accessing the right  
information. Certainly, the rollout of our  
computer system is not perfect. So there are  
going to be issues. We have ways of addressing  
those issues. As they're raised, we're looking  
into them. So if there are specific issues that  
we need to look into--

CHAIRPERSON RECCHIA: [interposing]  
Yes. The sessions, get into the session to input  
notes and stuff.

VERONICA CONFORME: Right.

CHAIRPERSON RECCHIA: It's very  
hard to get into.

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2 VERONICA CONFORME: As I said  
3 earlier, we have nine million--

4 CHAIRPERSON RECCHIA: [interposing]  
5 But you know what's happening?

6 VERONICA CONFORME: --session notes  
7 entered.

8 CHAIRPERSON RECCHIA: We have all  
9 these therapists who are trying hard and they  
10 don't know what to do. You know what they tell  
11 us? There's no one out there to turn to. No one  
12 is listening to them. I'm glad you're here today,  
13 because we the City Council are speaking out for  
14 all of them. It's a serious problem.

15 [Background noise]

16 CHAIRPERSON RECCHIA: That's Mayor  
17 Bloomberg calling me, telling me to calm down.

18 [Laughter]

19 VERONICA CONFORME: I'll just also  
20 mention that the chancellor met--was it last week,  
21 this week? This week, earlier, with  
22 representatives of related service providers at  
23 the UFT and heard some of the issues himself. And  
24 so there are--

25 CHAIRPERSON RECCHIA: [interposing]

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2 I'm glad. It's a step in the right direction.  
3 You know what I really think you need to do? I  
4 really think you have to go districts, regions,  
5 networks, whatever they are today, you really have  
6 to get those therapists together in each area and  
7 have a meeting with them and hear what they have  
8 to say. I think it would go a long way. And let  
9 them talk freely, not that they'll be penalized or  
10 not that they're supervisor "you can't say this;  
11 you can't say that."

12 I have two quick questions. One is  
13 you said HRA is helping do billing for you, is  
14 that correct?

15 VERONICA CONFORME: Yes.

16 CHAIRPERSON RECCHIA: Okay. Are  
17 they getting a piece of the action, a percentage  
18 of the money that you collect?

19 VERONICA CONFORME: No.

20 CHAIRPERSON RECCHIA: They're doing  
21 it free of charge?

22 VERONICA CONFORME: They're doing  
23 it in partnership with us. OMB facilitated a  
24 series of meetings to make sure that we were able  
25 to work together to get that done.

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2 CHAIRPERSON RECCHIA: So all the  
3 money that you collect--

4 VERONICA CONFORME: [interposing]  
5 Is going to the Department of Education budget.

6 CHAIRPERSON RECCHIA: Okay. And  
7 they don't have to pay HRA for these services?

8 VERONICA CONFORME: Right.

9 CHAIRPERSON RECCHIA: Okay. I will  
10 come back later on with some more questions. I'll  
11 give all of my colleagues an opportunity.

12 CHAIRPERSON JACKSON: Thank you.  
13 Thank you, Chair Recchia. We're going to turn to  
14 our colleagues. Darlene Mealy first, followed by  
15 Helen Foster, Gale Brewer and Margaret Chin.  
16 We're going to set the clock for five minutes.  
17 We're going to ask if you can hear. So let's  
18 first turn to Darlene Mealy, our colleague from  
19 Brooklyn.

20 COUNCIL MEMBER MEALY: Good  
21 morning. I just want to thank the chairs for  
22 having this important hearing. I just had some  
23 major parents calling me in regards to special  
24 needs and the principals is sending them to  
25 another school, they got private counseling for

1  
2 their child to see if they were special needs.  
3 They find out they were not and the principal  
4 still did not want to give them the resources. So  
5 this is a great meeting we're having right now.

6 I just have one question. So DOE  
7 has cited that you don't have lack of staff now,  
8 you have enough staff, right?

9 VERONICA CONFORME: We have staff  
10 dedicated to the Medicaid process.

11 COUNCIL MEMBER MEALY: I read in  
12 your testimony you said you trained for two years  
13 9,000 employees.

14 VERONICA CONFORME: Right, on  
15 Medicaid compliance.

16 COUNCIL MEMBER MEALY: On the  
17 compliance.

18 VERONICA CONFORME: Right, because  
19 that was a big part of what came out of the audit,  
20 that we needed to train people on compliance.

21 COUNCIL MEMBER MEALY: Okay. Then  
22 you said we hired 20 part time physicians who  
23 created orders for the services. Where they  
24 outside employees that you hired or did you hire  
25 within?

1  
2 VERONICA CONFORME: This was in  
3 coordination with the Department of Health. They  
4 are Department of Health employees and we are  
5 using them for a percentage of the time to do  
6 these orders. So this is another--

7 COUNCIL MEMBER MEALY:  
8 [interposing] So you saying there's someone from  
9 the Health Department. They already had the job.  
10 They was working for HHC--

11 VERONICA CONFORME: [interposing]  
12 Right, the Department of Health helped us--

13 COUNCIL MEMBER MEALY: --and now  
14 they're working for you now?

15 VERONICA CONFORME: --identify and  
16 hire the people. They're not being paid by the  
17 Department of Education's budget. They are  
18 working in the Department of Health and working  
19 for us.

20 COUNCIL MEMBER MEALY: Well,  
21 bluntly, was it an outsourced contract with these  
22 part time workers or--

23 VERONICA CONFORME: [interposing] I  
24 don't believe it's an outsourced contract. I  
25 believe these are employees of the Department of

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Health.

COUNCIL MEMBER MEALY: So they just working now for you part time.

VERONICA CONFORME: Exactly.

COUNCIL MEMBER MEALY: With their full time job with the hospital also.

VERONICA CONFORME: Or part time job with whoever they--

COUNCIL MEMBER MEALY:

[interposing] See what my problem is why we couldn't--you laid off 600 staff, assistant staffers in schools. Were there not any analysis to see if someone else can do it inside without hiring--they already had a job and now they have a part time job just as well?

VERONICA CONFORME: Right. The people who are required to actually issue these orders are either doctors or nurse practitioners. Those are the categories of employees that can actually do an order for the services that the students require.

COUNCIL MEMBER MEALY: So it's no one else in any other field?

VERONICA CONFORME: Either doctors

1  
2 or nurse practitioners. Those are the people that  
3 we actually need, right.

4 COUNCIL MEMBER MEALY: I understand  
5 that but it seem like we're stating that it's  
6 only--it's a small field and we have to stay  
7 within that field. But I was wondering if HHC,  
8 someone who has been laid off at HHC, have we  
9 considered even hiring somebody who had just been  
10 laid off?

11 VERONICA CONFORME: I didn't know  
12 that HHC had laid off people, but we can certainly  
13 ask them, if we can--

14 COUNCIL MEMBER MEALY: We have an  
15 economic downturn.

16 VERONICA CONFORME: Right.

17 COUNCIL MEMBER MEALY: We have to  
18 start looking to see how we can help people  
19 without jobs. Someone is already with a job and  
20 now we're giving them a part time job, it makes no  
21 sense.

22 VERONICA CONFORME: Right.

23 COUNCIL MEMBER MEALY: And we're  
24 still trying to make this society a better place  
25 where people can have jobs. And that's my only

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question. I'm glad this hearing was today.

VERONICA CONFORME: Thank you.

COUNCIL MEMBER MEALY: Because now I'm having more information to go back to my parents with and I definitely need to speak to you more in regards to this.

VERONICA CONFORME: Okay.

COUNCIL MEMBER MEALY: Thank you, Chairs.

CHAIRPERSON JACKSON: Thank you.

Now we're going to hear from our colleague Helen Diane Foster of the Bronx, followed by Council Member Gale Brewer of Manhattan.

COUNCIL MEMBER FOSTER: Good morning.

VERONICA CONFORME: Good morning.

COUNCIL MEMBER FOSTER: Very quickly, in my other life, I was in-house counsel and compliance officer for a hospital. So I know this issue in and out, so a couple of questions. SESIS, is that how I say it?

VERONICA CONFORME: Yes.

COUNCIL MEMBER FOSTER: Was that program created to be compatible with Medicaid or

1  
2 was this created prior to Medicaid, so that all  
3 the CPT codes and all the codes; you're just  
4 merging the programs?

5 VERONICA CONFORME: So the SESIS  
6 program was designed I think back in 2007  
7 approximately. So this was before we actually had  
8 the requirements that came out in 2009-2010.  
9 However, we had already thought that we would need  
10 some of these things and started to build some of  
11 the systems. SESIS is predominately a system to  
12 document the individual education plan for  
13 students. That's the primary function. It also  
14 has functions where you can document the  
15 encounters and session notes from each of the  
16 providers.

17 COUNCIL MEMBER FOSTER: Right. But  
18 you can also, and maybe Matt, because this is  
19 going to go to my question, what is your  
20 background in terms of being the director of  
21 Medicaid, executive director, do you come in with  
22 that type of training, billing, knowing Medicaid,  
23 knowing the CPT codes? Like, for example, when I  
24 was at the hospital, you were reimbursed less if  
25 you do encounters in the hospital. So we created

1 freestanding clinics across the street and  
2 practices for physicians so that the Medicaid  
3 encounters and the CPT codes would then be coded  
4 differently, so then the reimbursement is higher.  
5 So does--wait, let me ask Matt. I would like to  
6 know what your background is for being executive  
7 director of this Medicaid care.

8  
9 VERONICA CONFORME: I'll certainly  
10 ask him to talk about his background. I think  
11 that's the sort of challenge I talked about, that  
12 there's the perspective of running and  
13 organization based on health care and maximizing  
14 revenues--I also worked in health care in the  
15 past--versus an educational program. We would  
16 never consider wanting occupational therapy or  
17 physical therapy or speech therapy not to happen  
18 in the same classroom--

19 COUNCIL MEMBER FOSTER:  
20 [interposing] Correct.

21 VERONICA CONFORME: --or in the  
22 same proximity with our students, because that's  
23 the best educational setting. That may be in  
24 contradiction to what medical facilities do  
25 because--

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COUNCIL MEMBER FOSTER:

[interposing] No, my example was just saying that we invested the money to hire a woman who knew it in and out, who slept CPT codes. So that, for example, when you say if three of the four students don't show up, then you don't get reimbursed. There needs to be someone who knows what CPT code then to put in so that that one visit is now counted as a visit for individual session.

VERONICA CONFORME: No, I

understand that.

COUNCIL MEMBER FOSTER: So this is

nice, but it's not difficult. There are people out there and this is where, you know, we're always talking about thinking outside of the box.

All it requires is having someone, and I don't know if the CFO has this experience, but all it requires is hiring someone who knows Medicaid codes, who with this system, that's why IT people get all that money, you can manipulate-- and I don't know how to do it--but our IT person made right under the president. He made more than the senior VPs because he was able to manipulate

1  
2 smart medical records so that every visit, every  
3 note that the doctors wrote in the smart medical  
4 record, which was now online, could then be  
5 funneled into the billing and no visit, no service  
6 wasn't caught.

7 So it's not a matter of necessarily  
8 training or retraining, it might be a matter of  
9 manipulating SESIS. Is that correct? Am I saying  
10 it right?

11 VERONICA CONFORME: Yes.

12 COUNCIL MEMBER FOSTER:

13 Manipulating that so that--no? That's not it?  
14 Oh, I thought he was shaking his head.

15 VERONICA CONFORME: No, no.

16 COUNCIL MEMBER FOSTER: So that the

17 occupational therapist, physical therapists are  
18 still in the classroom, are still doing their  
19 recording. So you're not requiring them to do it  
20 at night or whatever, but what they put in the  
21 machine can then generate the CPT codes.

22 VERONICA CONFORME: I'll have Matt  
23 address the issue of his--

24 MATT BERLIN: [interposing] So  
25 prior to coming to New York City, I worked in

1  
2 health care in Seattle at a network of public  
3 health clinics that dealt with Medicaid billing.  
4 And then before that was one of the founders of a  
5 Medicaid managed care plan in Connecticut, and  
6 before that, worked in community health in  
7 Connecticut.

8 COUNCIL MEMBER FOSTER: Okay.

9 MATT BERLIN: So we have very  
10 complicated requirements for Medicaid in education  
11 billing, but they are, I will say, far simpler  
12 than a primary care clinic, like I worked, a  
13 Medicaid managed care plan, like I worked or than  
14 a hospital. So, in fact, the art of CPT, there  
15 really is a universe of only 50 CPT codes that  
16 we're entitled to use. So while we are very  
17 conscious of that and we are careful to try to  
18 maximize our revenue to make sure that if we have  
19 three possible codes and we can only bill for two,  
20 we look at the two largest ones. It is a far  
21 simpler art.

22 In addition to me, there's a  
23 Medicaid compliance officer who came from Mount  
24 Sinai. We have a person in the IT department who  
25 is from, I forget which insurance company, who has

1  
2 experience in Medicaid billing. So Veronica and  
3 Michael have done a very good job of hiring staff  
4 that do have experience in medical billing.

5 COUNCIL MEMBER FOSTER: Okay, so  
6 that's great. I know my five minutes is up and I  
7 will be concluding. But then we need to start  
8 connecting your knowledge, the Medicaid compliance  
9 and whomever to the system or if the system of  
10 SESIS has been manipulated like that because while  
11 the issues are real in terms of signatures and  
12 things like that, it's very doable.

13 And even if you invest money on the  
14 front end, the money that we're losing if we  
15 start, if it is a matter of getting computers, if  
16 it's a matter of setting up time for them to input  
17 the data because once it's there the codes can be  
18 generated. Then that's what we need to do,  
19 because we literally were able to save facilities  
20 and hospitals just by investing in good billers.  
21 You know, if you have a biller, a physician, a  
22 hospital, a practice, then they can capture  
23 everything.

24 So the fact that it is, in fact,  
25 less CPT codes should be doable. Thank you.

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CHAIRPERSON JACKSON: Thank you.

So, Mr. Berlin, you indicated that you have a Medicaid compliance officer. Who is that person and where are they? Are they at this hearing now?

MATT BERLIN: Dina Karagiorgos and she is not at this hearing I don't believe.

CHAIRPERSON JACKSON: Okay. Don't you think since she's the Medicaid compliance officer, I know that she's dealing with Medicaid compliance, but this hearing is about Medicaid compliance by DOE.

MATT BERLIN: She's been involved in all of the preparation for this. We knew it was a small room and she's able to watch this on the internet. I mean she's been involved in all of the preparation for this.

COUNCIL MEMBER BREWER: We have webcasting? I'd be so excited. Do we?

CHAIRPERSON JACKSON: Are we webcasting? No?

COUNCIL MEMBER BREWER: They're not plugged in. I'm waiting.

VERONICA CONFORME: We're not.

CHAIRPERSON JACKSON: Wow, the

1  
2 Medicaid compliance officer is not at a hearing  
3 that's dealing with the Medicaid reimbursement.  
4 That's great. Now we turn to our colleague Gale  
5 Brewer, followed by Council Member Chin.

6 COUNCIL MEMBER BREWER: Thank you  
7 very much. I just want to get the full number. I  
8 know you mentioned in your testimony that you  
9 want--OMB wants you to meet the target of \$117  
10 million. Is that the number that you're working  
11 on for 2012-2013?

12 VERONICA CONFORME: Yes, that is  
13 the number that's our target for this year.

14 COUNCIL MEMBER BREWER: Is that the  
15 maximum that you think or do you think you can do  
16 more?

17 VERONICA CONFORME: We don't think  
18 that we can do more.

19 COUNCIL MEMBER BREWER: Okay.

20 VERONICA CONFORME: Based on the  
21 projections on how many staff members and all of  
22 the logistical issues that we've talked about.

23 COUNCIL MEMBER BREWER: Just in  
24 terms of Domenic Recchia, you asked about meeting  
25 with the professionals in this amazing industry,

1  
2 these very committed professionals. In addition,  
3 there's a Citywide Council on Special Education  
4 which has brought this issue to my attention. Do  
5 you meet with them on a regular basis?

6 VERONICA CONFORME: Yes. We meet  
7 with our special ed--and you're talking about the  
8 special ed--

9 COUNCIL MEMBER BREWER:  
10 [interposing] No, the Citywide Council on Special  
11 Education. It's parents. Jaye Bea Smalley, who's  
12 in my district, is the co-chair.

13 VERONICA CONFORME: Okay.

14 COUNCIL MEMBER BREWER: Do you meet  
15 with them.

16 VERONICA CONFORME: No, we have not  
17 met with them.

18 COUNCIL MEMBER BREWER: Is there  
19 some reason why not, because this is the problem  
20 that they bring to my attention all the time?

21 ELLEN MCHUGH: [off mic]

22 COUNCIL MEMBER BREWER: I'm sorry,  
23 could you answer that question?

24 VERONICA CONFORME: We have not met  
25 with them. We know that our leaders in special

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2 education in the Department of Education meet  
3 regularly with different people. I can't say for  
4 certain that they do, but Laura Rodriguez, who is  
5 our deputy chancellor for special education is  
6 likely the person that would meet with them.

7

COUNCIL MEMBER BREWER: Okay. Then  
8 are you going to set up the meeting immediately  
9 after this meeting that was suggested that was  
10 suggested by Domenic Recchia?

11

VERONICA CONFORME: In terms of  
12 the?

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COUNCIL MEMBER BREWER: The  
14 professionals, the people who are complaining  
15 about the--

16

VERONICA CONFORME: [interposing]  
17 Yes. And actually, in SESIS, because we have  
18 heard some of the feedback, we are setting user-  
19 bility testing and we're going to ask people who  
20 are actually using the system to provide--

21

COUNCIL MEMBER BREWER:  
22 [interposing] Are you going to meet with them?  
23 There's a difference. I know about technology.  
24 There's a difference. Are you actually going to  
25 meet with the users? Not feedback, an actual

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meeting.

VERONICA CONFORME: Sure. I mean we're happy to meet with anybody around--

COUNCIL MEMBER BREWER:  
[interposing] Okay. Who's the contractor for SESIS?

VERONICA CONFORME: Maximus.

COUNCIL MEMBER BREWER: Okay. And is Maximus providing free assistance or do you now have to pay their experts to train and to sustain the system?

VERONICA CONFORME: Part of our contract is that they would train our staff in the new system.

COUNCIL MEMBER BREWER: And how much do you pay them per year for that?

VERONICA CONFORME: It's part of building the system. It was all part of the contract.

COUNCIL MEMBER BREWER: Part of the development of the system?

VERONICA CONFORME: Yes.

COUNCIL MEMBER BREWER: So is it an ongoing or is it a one-time?

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VERONICA CONFORME: It's ongoing.  
It has been ongoing since the system launched.

COUNCIL MEMBER BREWER: And how long is that contract for?

VERONICA CONFORME: I don't know.

COUNCIL MEMBER BREWER: Could you get back to us and let us know?

VERONICA CONFORME: Sure.

COUNCIL MEMBER BREWER: How much time?

VERONICA CONFORME: Five years.

COUNCIL MEMBER BREWER: So five years, so that started in 2007 or '09?

VERONICA CONFORME: Yes.

COUNCIL MEMBER BREWER: 2007?

VERONICA CONFORME: 2007? 2008.

COUNCIL MEMBER BREWER: 2008. All right, and you'll let us know how much it is per year.

VERONICA CONFORME: Yep.

COUNCIL MEMBER BREWER: If it's on an annual basis or one time or whatever it is, right? Number two, private schools or non-public schools, are they also behind in their

1  
2 reimbursement, for lack of a better word? What's  
3 the status? How many students are in your non-  
4 public that get these services, receive these  
5 services? Are you in the same problem or  
6 challenging situation, depending on what words we  
7 want to use?

8 VERONICA CONFORME: So in terms of  
9 the students in our non-public schools--

10 COUNCIL MEMBER BREWER:

11 [interposing] Yes.

12 VERONICA CONFORME: --I'm going to  
13 have Matt answer that question.

14 COUNCIL MEMBER BREWER: Because I  
15 want to know do they have the same computer  
16 system? Can they access it? So on and so forth.

17 MATT BERLIN: So no, we have not  
18 yet rolled SESIS out to the non-public schools.

19 COUNCIL MEMBER BREWER: You have  
20 not yet rolled out--

21 MATT BERLIN: [interposing] So  
22 we've started to begin working with them. We've  
23 been training their employees for the past two  
24 years. That's a prerequisite to billing.

25 COUNCIL MEMBER BREWER: Oh my.

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2 MATT BERLIN: And we've also  
3 modified our contracts with them. We can't ask  
4 them to do some of this work until the contracts  
5 get modified. The school age contracts were  
6 modified last June and the pre-k contracts, we're  
7 working with the schools. Their contracts expire  
8 at the end of this June.

9 We have drafted a guidance and  
10 we've sent it to seven sites sort of as an early  
11 review, to get their feedback because we didn't  
12 want to spring anything on them. In addition,  
13 we've reviewed it with the state and they've given  
14 us a number of revisions. And we're going to be  
15 incorporating the state's revisions and the  
16 comments that we've received from those initial  
17 schools that have reviewed them and then redraft  
18 the guidance.

19 In addition, we've begun to work on  
20 a pilot basis with two schools collecting data and  
21 doing it by hand, the same way the other districts  
22 are, literally people typing into Microsoft Excel  
23 from paper forms so that we can both begin to  
24 claim and also so that we can have the experience  
25 of a pilot to really inform the way that we

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implement the system in a systematic way.

COUNCIL MEMBER BREWER: Okay. So I'm just trying to understand. So you're saying that part of the numbers that the two chairs gave, you're not getting funding from the non-public schools because those schools are not in the system basically? Am I making it clear?

VERONICA CONFORME: That's correct.

COUNCIL MEMBER BREWER: Okay. Can I just say I can't get as excited as Domenic Recchia, but it's challenging to hear that statement? I'm just saying it's challenging. With all due respect, the non-public schools, they know what they're doing sometimes better than some of the rest of us. They're really great. So I don't understand why they weren't in the system from the beginning. I just don't get it, why they weren't part of the reimbursement in some shape or form. Is there some reason for that?

VERONICA CONFORME: So, in order to be part of the--

COUNCIL MEMBER BREWER:  
[interposing] Because it's far less students, like according--

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VERONICA CONFORME: [interposing]  
Right. In order to be part of the reimbursement they actually have to get on our system. Non-public schools are not on all of our systems currently.

COUNCIL MEMBER BREWER: So you couldn't have done paperwork with them?

VERONICA CONFORME: Well we're starting to do paperwork now.

COUNCIL MEMBER BREWER: I don't mean to be difficult. I hear you; it makes me crazy. It just makes me crazy. It's like manana as opposed to today. So I got it. My time is up. I have one other quick question, which is that mental health is something that the chair of the Mental Health Committee and I have spent a huge amount of time. The onsite mental health or other kinds of clinics, are they at all part of any reimbursement? In other words, if you're working with students who need, obviously IEP, I have one who's in his 40s now so I go back to the HC 30 days. So I'm familiar with IEPs. My question is are there any onsite clinics that could also help in this reimbursement issue or is just an

1  
2 individual CT person working with the individual  
3 student? Is that something that a clinic can do  
4 and help with reimbursement, that's my question?

5 MATT BERLIN: So we're doing two  
6 things with the school based health centers.

7 COUNCIL MEMBER BREWER: Correct.

8 MATT BERLIN: I guess there's two  
9 answers to your question. We are engaging the  
10 school-based health centers in helping us get  
11 these orders. There are school-based health  
12 centers in 256 of our schools.

13 COUNCIL MEMBER BREWER: Correct.

14 MATT BERLIN: And they're going to  
15 help us generate the orders. The mental health  
16 services that are provided by the school-based  
17 health clinics are not part of the IEP process, so  
18 those we cannot. We're restricted, as I was  
19 saying, in the things that we can get  
20 reimbursement for. So we can't get reimbursed for  
21 the services provided by the school-based health  
22 clinics. It's just not part of the Medicaid--

23 COUNCIL MEMBER BREWER:

24 [interposing] Okay. But there's something that  
25 the clinics can do to help with this process that

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we're working on.

MATT BERLIN: They have been  
terrifically cooperative.

COUNCIL MEMBER BREWER: Okay. I'll  
leave it at that.

CHAIRPERSON JACKSON: Thank you.

COUNCIL MEMBER BREWER: There are a  
lot of questions. I don't understand the  
slowness. Thank you.

CHAIRPERSON JACKSON: Thank you.

Next is Margaret Chin, followed by Fernando  
Cabrera. Before my colleague Margaret Chin, when  
Gale Brewer had asked whether you were meeting  
with the parents, Ellen McHugh, I heard her from  
over here saying that you refused to meet with  
them.

ELLEN MCHUGH: [off mic] We've been  
deflected each time...

CHAIRPERSON JACKSON: You've been  
deflected each time that they have requested a  
meeting. This is what she's saying.

VERONICA CONFORME: Okay. I have  
not rejected any specific meetings.

CHAIRPERSON JACKSON: You're

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hearing it.

VERONICA CONFORME: Yes.

CHAIRPERSON JACKSON: Basically they've said you've been basically putting them off and refused basically. I guess their conclusion is that you refused to meet with them because you've been, you know, fluffing them off. These are my terminologies.

VERONICA CONFORME: And as I have stated, I have not refused to meet with anyone.

CHAIRPERSON JACKSON: Well maybe not you. We're saying the Department of Education. So we want you--

VERONICA CONFORME: [interposing]  
And I guess--

CHAIRPERSON JACKSON: --to take that back that these are the parents of children involved in this and basically you hear them saying they've been deflected. They've been, in my words, they've been fluffed off and not met with.

VERONICA CONFORME: Right. I'd like to know if anybody from the Department has met with them. I guess that would be my question.

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2 CHAIRPERSON JACKSON: Well, Ellen  
3 McHugh is right there. So maybe your government  
4 affairs person can talk to her.

5 VERONICA CONFORME: Okay.

6 CHAIRPERSON JACKSON: Margaret  
7 Chin. Sorry.

8 COUNCIL MEMBER CHIN: Thank you,  
9 Chair. Like schools in my district, like in  
10 District 1, we have a lot of, you know, special  
11 needs students. So one of the question is that in  
12 terms of helping to kind of get the information,  
13 get the data, have you really thought about sort  
14 of like decentralizing the process, really  
15 focusing on, you know, the Community Education  
16 Council, getting them involved and the individual  
17 school to give them the resources? Not just  
18 computer but like maybe extra personnel to help  
19 them to work with the parents to get all the  
20 documentation so that you can, you know, get the  
21 reimbursement. Because if they have a higher  
22 number of special education student, that affects  
23 their budget. I assume that they would get extra  
24 money for providing those services for their kids.

25 VERONICA CONFORME: Right. But the

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2 money that they receive is actually for providing  
3 educational services, not to hire people to meet  
4 compliance requirements or try to get  
5 reimbursement. I think it's an interesting  
6 proposal. I think it's something we should look  
7 at in terms of what could be decentralized. We  
8 have been moving towards trying to capture all  
9 this information as much as possible from a local  
10 level in the systems that we have and then  
11 generating those claims, you know, centrally from  
12 our office.

13 COUNCIL MEMBER CHIN: Well, yeah, I  
14 mean the principal shouldn't have to use their  
15 school budgets--

16 VERONICA CONFORME: [interposing]  
17 Right.

18 COUNCIL MEMBER CHIN: --which has  
19 already been cut to kind of do this work. So if  
20 this is such a priority, I mean to really capture  
21 the money, as you say, you have to put some  
22 initial investment to get the millions and  
23 hundreds of millions of dollars that we deserve  
24 that we need to put some extra help in the schools  
25 and in the district and really get them to work

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2 with us together on this. I mean we have the  
3 network, right, we have the like Community  
4 Education Council and there should be--your  
5 training and the word should be out there we all  
6 have to work together to try to get this money--

7 VERONICA CONFORME: [interposing]

8 Agreed.

9 COUNCIL MEMBER CHIN: --back into  
10 our school system.

11 VERONICA CONFORME: Agreed.

12 COUNCIL MEMBER CHIN: So can you  
13 really consider, you know, providing extra  
14 resources to these schools, because we have  
15 schools in our district who have a large  
16 population. So you're talking about having  
17 designated personnel that can help collect those  
18 consent forms, you know and making sure kids are  
19 attending the sessions, you know, so that we can  
20 capture all the data that's necessary.

21 The other question is with this  
22 whole computer system, are there people available  
23 24 hours, you know like IT hotlines or--

24 VERONICA CONFORME: [interposing]

25 Yeah, we have a help desk.

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COUNCIL MEMBER CHIN: --help desk  
that people can call--

VERONICA CONFORME: [interposing]  
We have a help desk, yes.

COUNCIL MEMBER CHIN: --when they  
can't get on the system--

VERONICA CONFORME: [interposing]  
That is correct, yes.

COUNCIL MEMBER CHIN: --when they  
have a problem with the system.

VERONICA CONFORME: Yes.

COUNCIL MEMBER CHIN: Okay. All  
right thank you, Chair.

CHAIRPERSON JACKSON: Thank you.  
Follow up by Fernando Cabrera of the Bronx and  
then by Diana Reyna and Jimmy Vacca.

COUNCIL MEMBER CABRERA: Thank you  
so much, Chair Jackson. Welcome.

VERONICA CONFORME: Thank you.

COUNCIL MEMBER CABRERA: Please  
help me understand why is it taking so long to fix  
this problem? I really want to know why. Has  
there been a major roadblock? What is at the very  
heart of the problem?

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2 VERONICA CONFORME: Okay. I think  
3 what I laid out in my testimony was that the major  
4 problem was that we told not to actually claim  
5 anything until the audit was resolved. The  
6 resolution of the new regulations came out in 2010  
7 and we have been working since then to build some  
8 of the systems in order to both be in compliance  
9 as we claim and to try to put systems in place and  
10 computer systems in place and train staff to get  
11 to a point where we can actually start claiming.  
12 Did you want to add something, Matt?

13 MATT BERLIN: There really have  
14 been, I think seven major accomplishments since we  
15 received the guidance from the state to begin  
16 claiming. So first of all, we built the system to  
17 get and record consent and that's working very  
18 well. Two-thirds of the parents have given us  
19 consent. It's a relatively painless process.  
20 It's decentralized down to the schools. It's in  
21 many languages.

22 COUNCIL MEMBER CABRERA: So you're  
23 down to--because I only have a few minutes here.  
24 So what percentage of parents are we falling short  
25 in terms of renewing the consent?

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2 MATT BERLIN: So we have 40 percent  
3 of the parents haven't responded. We haven't  
4 pushed very hard on the parents because it appears  
5 that the federal regulations will change, making  
6 the consent easier. But two-thirds of them--

7 COUNCIL MEMBER CABRERA:  
8 [interposing] When do you anticipate a change will  
9 take place?

10 MATT BERLIN: The Federal  
11 Department of Education is revising the  
12 regulations. All they've said is it's a priority  
13 to get it to Federal OMB soon. Federal OMB will  
14 take 90 days and the regulations will change.

15 COUNCIL MEMBER CABRERA: How much  
16 will it cost us in this delay if we don't push?

17 MATT BERLIN: Frankly that's not a  
18 cost to us. Because we have two years to claim,  
19 there isn't a cost involved in delaying getting  
20 these. So there are seven things that we did.  
21 First was the consent. The second was that we  
22 began a pilot and built the infrastructure to  
23 accept orders for service from doctors. The third  
24 thing is we modified our school age contracts with  
25 our non-public schools so we could collect data

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2 from them. The fourth thing is that we wrote and  
3 implemented this Medicaid compliance plan. The  
4 fifth thing is that we conducted training for over  
5 13,000 people, a precondition to training. The  
6 sixth thing is that we implemented the SESIS  
7 system, both so we could capture IEPs, so we could  
8 capture encounters and so we could capture order  
9 for speech. And then the seventh thing is that we  
10 established a system to screen providers against  
11 Medicaid eligibility or ineligibility lists  
12 produced by the--

13 COUNCIL MEMBER CABRERA:

14 [interposing] So when do you anticipate this  
15 problem will be completely resolved?

16 MATT BERLIN: So we expect that  
17 we'll be able to start claiming before the end of  
18 this fiscal year.

19 COUNCIL MEMBER CABRERA: You'll  
20 start claiming. When will it be complete? When  
21 are we going to be able to get the monies that are  
22 due to us? When are we going to see, what is it,  
23 \$117 million?

24 MATT BERLIN: So we have really  
25 only three obstacles left in order to have the

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water gushing out of--

COUNCIL MEMBER CABRERA:

[interposing] I just need a when.

MATT BERLIN: Well, those are not under our control.

COUNCIL MEMBER CABRERA: Okay.

MATT BERLIN: So the first obstacle is getting enough orders. So we have five approaches to doing that. One of them is that we are hiring additional doctors to get more orders. The second is we're engaging with the school-based health centers to get more orders. The third thing that we're doing is we are developing a system where we can incent parents to go to their own primary care provider and get us orders. The fourth thing we're trying to do to get orders is working with the state to modify their arrangements with Medicaid managed care plans so that we can work directly with them to get orders. And the fifth thing is we've spoken with our union to see if we can get the speech language pathologists that we do employ to where they believe it's appropriate, self-refer for orders. So that's the first obstacle.

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2 COUNCIL MEMBER CABRERA: I'm sure  
3 we're going to have another hearing about this  
4 maybe two years from now, a year and a half from  
5 now. When can, at the next hearing, can we hear  
6 problem resolved? When can we anticipate that to  
7 take place?

8 MATT BERLIN: So like I said we  
9 have these three obstacles that are a little bit  
10 out of our control. So some of that's dependent  
11 on when the state is able--

12 COUNCIL MEMBER CABRERA:  
13 [interposing] I'm just talking about anticipation.

14 MATT BERLIN: You know, I--

15 VERONICA CONFORME: [interposing]  
16 Let me just--

17 MATT BERLIN: [interposing] Sure.

18 VERONICA CONFORME: We want it  
19 resolved as soon as possible. Matt is dedicated  
20 completely, as is the entire department to  
21 resolving these issues as soon as possible. As  
22 these three issues get resolved, we will be on our  
23 way to claiming for the full amount.

24 COUNCIL MEMBER CABRERA: Okay.

25 VERONICA CONFORME: So that's the

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most honest answer we could give you.

COUNCIL MEMBER CABRERA: Thank you, Veronica. Here's my last question. You mentioned that you're trying to get the money--did I hear you right? I just want to be fair here.

VERONICA CONFORME: Yep.

COUNCIL MEMBER CABRERA: Did I hear you right saying you want to get the monies first before you get the computers or--

VERONICA CONFORME: [interposing]  
No, we--

COUNCIL MEMBER CABRERA: --or is it in the budget this year? Because I know the question was asked, I wasn't clear with the answer. Maybe I didn't hear it right.

VERONICA CONFORME: Yeah, we would be committed to getting the computers this year in anticipation--

COUNCIL MEMBER CABRERA:  
[interposing] This year.

VERONICA CONFORME: --of the Medicaid claims.

COUNCIL MEMBER CABRERA: And it will be at the desks of the psychologist and all

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the therapists--

VERONICA CONFORME: [interposing]

It would be at the schools, so available for all of the staff that use this program.

COUNCIL MEMBER CABRERA: When?

VERONICA CONFORME: We have a proposal. We have been discussing this with the UFT and as soon as we come to an agreement then we are happy to purchase the computers.

COUNCIL MEMBER CABRERA: Okay.

Thank you so much.

CHAIRPERSON JACKSON: Do you need agreement from UFT in order to purchase computers?

VERONICA CONFORME: No, we don't need agreement. We've already purchased many of the computers in the schools.

CHAIRPERSON JACKSON: So what's the hang-up with UFT?

VERONICA CONFORME: The addition of the--and I'll let Matt talk to what the actual proposal was.

CHAIRPERSON JACKSON: Tell me what's the hang-up with the UFT? You said you're waiting to reach agreement with UFT.

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MATT BERLIN: So we've asked--

CHAIRPERSON JACKSON: [interposing]

What's the hang-up?

MATT BERLIN: The UFT, we currently don't believe we're allowed to use the speech language pathologist license that UFT members have, about 60 percent of their speech teachers have.

CHAIRPERSON JACKSON: Okay.

MATT BERLIN: And we have--

CHAIRPERSON JACKSON: [interposing]

Their license meets the requirement of the state and the feds, is that correct?

VERONICA CONFORME: We need it in order to be in compliance.

CHAIRPERSON JACKSON: So in essence, because that's not part of their job description, you need agreement?

VERONICA CONFORME: That's right. That's correct.

CHAIRPERSON JACKSON: Okay. So, assuming that you get that, that's fine, that's one less headache that you have to worry about.

VERONICA CONFORME: Right.

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CHAIRPERSON JACKSON: Assuming that you don't get it, what's the game plan?

VERONICA CONFORME: That's going to be a big challenge. We won't be able to claim. We can't claim for it if we don't have the actual licenses. We cannot.

CHAIRPERSON JACKSON: But the state has set up other ways that you can do it, if you need to contract out for other speech pathologists, that's what you need to do in order to reclaim the funds. Is that correct?

VERONICA CONFORME: That's correct. We could--

CHAIRPERSON JACKSON: [interposing] You need certification from--

VERONICA CONFORME: [interposing] That is absolutely correct.

CHAIRPERSON JACKSON: --a licensed professional.

VERONICA CONFORME: We could contract out. This is a shortage area. We don't want to not hire speech teachers because they don't have this license because it's a shortage area.

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2 CHAIRPERSON JACKSON: So do you  
3 really think that you're going to reach agreement  
4 with UFT on this particular matter?

5 VERONICA CONFORME: We're hopeful.

6 CHAIRPERSON JACKSON: Okay. So  
7 before I turn to our colleague Diana Reyna, in  
8 here it says that you plan on recouping \$117  
9 million this fiscal year.

10 VERONICA CONFORME: That's our  
11 target.

12 CHAIRPERSON JACKSON: I'm hearing,  
13 Mr. Berlin says that we plan on submitting claims  
14 by the end of this fiscal year. So submitting  
15 claims is not recouping. Is that correct?  
16 Submitting is submitting.

17 VERONICA CONFORME: Right, correct.

18 CHAIRPERSON JACKSON: How are you  
19 going to recoup \$117 million this year then, this  
20 fiscal year?

21 VERONICA CONFORME: We've already  
22 drawn down some Medicaid claims from the TCMs that  
23 I talked about earlier.

24 CHAIRPERSON JACKSON: That was  
25 about \$12 million or how much?

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2 VERONICA CONFORME: No, it's  
3 roughly \$30 million for this year. Also, we are  
4 planning to submit a claim based on all of the  
5 things we've put in place. We don't have the  
6 exact numbers because there are a lot of things in  
7 play yet. But we are going to submit a claim this  
8 year, that's our goal, to reach the target as much  
9 as possible. We are in conversations with the  
10 UFT. We're in conversations with OMB about--

11 CHAIRPERSON JACKSON: [interposing]  
12 Yeah, but that's--I'm sorry. Go ahead, Veronica.

13 VERONICA CONFORME: --about some of  
14 the challenges. And we've been in conversations  
15 with OMB on a weekly basis about, you know, how  
16 we're doing towards that target.

17 CHAIRPERSON JACKSON: Well how do  
18 you think you're doing towards that target,  
19 realistically? Realistically? Transparency in  
20 your communications.

21 VERONICA CONFORME: Right. So  
22 roughly \$30 million have been claimed this year.

23 CHAIRPERSON JACKSON: \$30 million  
24 from, let's round it off to \$120 million.

25 VERONICA CONFORME: Right.

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2 CHAIRPERSON JACKSON: Fifty percent  
3 of \$120 million is \$60 million.

4 VERONICA CONFORME: Right.

5 CHAIRPERSON JACKSON: So that's  
6 about 25 percent, something like that?

7 VERONICA CONFORME: Correct.

8 CHAIRPERSON JACKSON: And what's  
9 this, March? April, May, we have three months  
10 left in the fiscal year. That's not too good. By  
11 anyone's standards as far as if--

12 VERONICA CONFORME: [interposing]  
13 The claim that we would be submitting at the end  
14 of the year would be retroactive to the entire  
15 year. So we would be compiling all of the  
16 information for this entire year and submitting it  
17 in the claim.

18 CHAIRPERSON JACKSON: How many  
19 services are you claiming for? One, two, three,  
20 four--

21 VERONICA CONFORME: [interposing]  
22 I'm going to ask Matt to address that.

23 CHAIRPERSON JACKSON: --because my  
24 understanding is that you're not claiming for all  
25 of the services that you can claim for.

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2 VERONICA CONFORME: So we can talk  
3 about what we're claiming for. Go ahead.

4 MATT BERLIN: So there are ten  
5 services that we're allowed to claim for.

6 CHAIRPERSON JACKSON: We know that.

7 MATT BERLIN: We are claiming for  
8 five of them. Speech--

9 CHAIRPERSON JACKSON: [interposing]  
10 What five?

11 MATT BERLIN: Speech pathology,  
12 occupational therapy, physical therapy, skilled  
13 nursing and transportation. There are five that  
14 we are not claiming for.

15 CHAIRPERSON JACKSON: Which five  
16 are those?

17 MATT BERLIN: One of them is  
18 counseling, and we're not claiming for counseling  
19 because the DOE doesn't employ counselors who have  
20 the proper credentials to claim under Medicaid,  
21 though they are perfectly well credentialed for  
22 education, both through the State Education--

23 CHAIRPERSON JACKSON: [interposing]  
24 As a result of that, how much are you possibly  
25 losing in the reimbursement?

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VERONICA CONFORME: \$18 million.

MATT BERLIN: \$18 million.

CHAIRPERSON JACKSON: Go ahead,  
continue.

MATT BERLIN: And then we are also  
not claiming for four small areas that are  
evaluation: medical evaluation, specialists  
medical evaluation, psychological evaluation and  
audiological evaluation.

CHAIRPERSON JACKSON: So total of  
the five areas that you're not going to claim  
reimbursement for, the total of the five areas,  
what's the value of that? Go ahead please. Just  
identify yourself again.

MICHAEL TRAGALE: Mike Tragale. As  
Matt indicated the \$18 million we lost because of  
the change to psychological counseling. The  
various evaluation requirements totaled up to \$2  
million. And one of the issues there is there are  
very few of those type of encounters. There's  
about 10-20 monthly encounters of those types.

CHAIRPERSON JACKSON: Of what type?  
I'm sorry.

MICHAEL TRAGALE: Of the

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2 psychological, audiological and medical  
3 evaluations. So it wasn't a large stream. We  
4 will be looking at that as well. We want to  
5 maximize all reimbursements. Right now, we're  
6 focusing on the bigger buckets.

7 CHAIRPERSON JACKSON: Okay. So of  
8 the five areas that you're not going to seek  
9 reimbursement for, what is the value of that that  
10 we are losing?

11 MICHAEL TRAGALE: \$20 million. And  
12 \$18 of that is because of the rule change, as I  
13 indicated.

14 VERONICA CONFORME: For the  
15 counselors that we don't have.

16 MICHAEL TRAGALE: Where counselors  
17 are required to do psychological counseling.

18 CHAIRPERSON JACKSON: So now I've  
19 looked at the stats in our briefing documents and  
20 one of the largest areas is transportation. Is  
21 that correct? I think it's the second largest  
22 area. Now, this \$20 million that you indicated  
23 for the five areas that we're not going to claim  
24 reimbursement for, is that all part of the \$117  
25 million for this fiscal year that you were talking

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about? Was that \$20 million part of that?

VERONICA CONFORME: No.

CHAIRPERSON JACKSON: No? Separate  
and apart?

VERONICA CONFORME: Yes.

CHAIRPERSON JACKSON: Okay. So  
based on what I've heard all through this hearing,  
there are so many things that are not in place.  
So, for example, you had said, Mr. Berlin, that we  
are in the second year of training non-public  
schools as to the system. Well how long does it  
take? If you're two years into the process,  
you're training them, how long does it take? And  
when are we going to get the money?

MATT BERLIN: Everyone is required  
to be trained every year. That's a state  
requirement for compliance training.

CHAIRPERSON JACKSON: Okay, that's  
fine. I know that. That's part of the  
regulations.

MATT BERLIN: Right.

CHAIRPERSON JACKSON: So you're in  
training. When are we going to get the money from  
the private schools?

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MATT BERLIN: So we have--

CHAIRPERSON JACKSON: [interposing]  
How long is it going to take you to get up and go  
and run?

MATT BERLIN: So we've begun pilots  
in two schools.

CHAIRPERSON JACKSON: How many  
schools are there total? Fifty?

MATT BERLIN: About 150.

CHAIRPERSON JACKSON: One hundred  
and fifty. And you're in pilots in two?

MATT BERLIN: Yes. Our thought was  
that we didn't want to rush this out. Sometimes  
when you rush something out to everyone, you don't  
do it as well. So our thought was to start--

CHAIRPERSON JACKSON: [interposing]  
I can understand that.

MATT BERLIN: --and see how things  
work with schools and then try to build a smart  
system for it.

VERONICA CONFORME: And we have to  
get--

CHAIRPERSON JACKSON: [interposing]  
But we're losing so much money as a result of

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that.

VERONICA CONFORME: Right. And in our non-public schools--

CHAIRPERSON JACKSON: [interposing] No, I'm sorry. You're saying no we're not? You're shaking your head. You were shaking your head like this.

MATT BERLIN: We can go back and claim.

CHAIRPERSON JACKSON: How far can you go back?

MATT BERLIN: Two years.

CHAIRPERSON JACKSON: But every month that we go forward that means that we're losing out.

VERONICA CONFORME: That's right. The issue, as I mentioned with the non-public schools earlier--

CHAIRPERSON JACKSON: [interposing] I'm sorry. The state said you can go back to September 2009, is that correct?

VERONICA CONFORME: No.

CHAIRPERSON JACKSON: No?

VERONICA CONFORME: No.

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CHAIRPERSON JACKSON: When?

VERONICA CONFORME: Two years back  
as of today.

CHAIRPERSON JACKSON: Okay. So  
whenever it is--

VERONICA CONFORME: [interposing]  
Right, exactly.

CHAIRPERSON JACKSON: --the more we  
go forward, a year from now, we just lost a year  
if we don't submit.

VERONICA CONFORME: Right. And all  
of the rules, all of the new rules and the new  
plan are retroactive. So if we didn't have these  
things in place--

CHAIRPERSON JACKSON: [interposing]  
Retroactive two years you mean?

VERONICA CONFORME: That's right.

CHAIRPERSON JACKSON: Go ahead.

VERONICA CONFORME: But in addition  
to that, the non-public school issue that we're  
dealing with is that we have to get the non-public  
schools into our system to start to track the  
information.

CHAIRPERSON JACKSON: I truly

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2 understand that. One of the things that I keep  
3 hearing DOE saying is that, you know, we've hired  
4 some employees, but you don't have enough. That's  
5 what I--overall I'm hearing from you that you  
6 don't have enough employees to move the system  
7 fast enough. What I've said to you in the  
8 beginning, hire more employees, because the money  
9 that you get reimbursed, you will be able to pay  
10 those employees and they're able to bring back  
11 some of the thousands of employees that were laid  
12 off. That's what you need to do. You need to  
13 hire more people. Come on. It's not so  
14 complicated. I'm going to turn to our colleague  
15 Diana Reyna for questioning.

16 COUNCIL MEMBER REYNA: Thank you,  
17 Mr. Chair. I just wanted to point out, back to  
18 Chair Recchia's point about access to computers in  
19 schools. My son is a preschooler who receives  
20 services for speech pathology, speech therapy,  
21 rather. His therapist is informing me that she  
22 doesn't have access to computers in schools. She  
23 functions throughout the city.

24 That is a piece of information that  
25 I think we should find valuable. My request to

1  
2 the Department of Education, seeing the work and  
3 the spirit of, in fact, trying to quickly upload  
4 this system that will bring the extra dollars  
5 necessary that are owed to the city for the  
6 children's services to be able to work with Ms.  
7 McHugh's direction, because there's a need to  
8 understand what is the reality within the schools  
9 as opposed to theoretical on paper plan and  
10 blueprint that we want to claim functions and it  
11 doesn't.

12 So that's my first request. When  
13 can we have that meeting with Ellen McHugh and the  
14 therapists or professionals within the world of  
15 special needs that can give you valuable realistic  
16 information?

17 VERONICA CONFORME: As I said,  
18 we're happy to meet with anyone about getting  
19 feedback about this process and providing  
20 information. The chancellor actually met with  
21 related services providers earlier this week.  
22 There was a representative group. The chancellor  
23 went to the UFT. They were at the UFT and gave  
24 him lots and lots of feedback on both the system  
25 but in general what's going on with related

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service providers.

COUNCIL MEMBER REYNA: Right. And I appreciate that, Veronica. Separate and aside from the UFT, Ellen McHugh, her expertise, the professionals that are giving this service.

VERONICA CONFORME: Right. And if there's a specific issue or a specific question or some feedback that they would like to give to us, we are happy to give you the contact information to connect the right people to get that feedback.

COUNCIL MEMBER REYNA: Well, I think you; this panel is the right people. That's the issue. If we don't start there, then everything crumbles, everything is miscommunicated and falls short of what would be a functioning system.

So separate and aside from that, I wanted to just ask what is the impact of the reimbursement or lack of the claims being reimbursed in the classroom. So I have PS 19, for instance, which is a school that was just closed. Its impact of having a special needs category of 18.8 percent of the student population of 350 students, under-enrolled school. What would be

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their lack of funding?

VERONICA CONFORME: We provide funding for all special education needs.

COUNCIL MEMBER REYNA: So you're telling me there is no impact at all?

VERONICA CONFORME: We do not not provide funding. We provide funding for every student who needs special education services.

COUNCIL MEMBER REYNA: And there is no impact financially to the school because of a lack of claims--

VERONICA CONFORME: [interposing] Not to the school--

COUNCIL MEMBER REYNA: -- reimbursed.

VERONICA CONFORME: --there's an impact to the system overall.

COUNCIL MEMBER REYNA: Right but--

VERONICA CONFORME: [interposing] I think we've discussed the fact that there is an impact. If you're not claiming, and you're not drawing down x amount of dollars that are reimbursements from the federal government, that creates an issue for you financially. That does

1  
2 not mean that we don't provide the funding to the  
3 school to provide special education services for  
4 the students.

5 COUNCIL MEMBER REYNA: So the  
6 school budgets are decreased, right? Therefore,  
7 the system is the school. It's not the  
8 department. So if we start recognizing the issue  
9 of--

10 VERONICA CONFORME: [interposing]  
11 The school is--

12 COUNCIL MEMBER REYNA:  
13 [interposing] Excuse me one second, Veronica. The  
14 issue of having--I'll give you another example.  
15 PS 257 in my district, 26.8 percent special needs.  
16 High figure. Every time there is a school budget  
17 cut, because of a lack of claims on schools like  
18 this that have the highest percentages of special  
19 needs are impacted, not just once but two-fold,  
20 three-fold. That's what I don't think your team  
21 is recognizing. If we don't have those  
22 discussions with Ellen McHugh, this is going to  
23 get worse not better. The issue of \$117 million  
24 is a figure that was given by OMB, correct?

25 VERONICA CONFORME: Correct.

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COUNCIL MEMBER REYNA: So the

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figure is not--

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VERONICA CONFORME: [interposing]

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It's a target.

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COUNCIL MEMBER REYNA: It's a

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target. What is the actual projection according

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to what would be a system that has thousands of--

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and I forget the figure because the MMR was being

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viewed on Gale's laptop, so I don't have it out

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now--but there's thousands of children under

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special needs category. What would be the actual

13

projected amount?

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VERONICA CONFORME: Okay. So the

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actual projected amount associated with--if we

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could claim--and we've enumerated all of the

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challenges and issues and things we have to

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resolve. If everything were aligned and we got

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all of the speech providers licenses and we were

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able to get all of the parent consent and we got

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all of the issues, we would be claiming

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approximately \$100 million. That would be what it

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is.

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COUNCIL MEMBER REYNA: But how is

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that OMB is claiming \$117 as a target?

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VERONICA CONFORME: And then--

COUNCIL MEMBER REYNA:

[interposing] The numbers are not aligning.

VERONICA CONFORME: It's  
approximately 100. If we started--

COUNCIL MEMBER REYNA:

[interposing] Is that just public school or is  
that non-public--

VERONICA CONFORME: [interposing]  
That's just public school.

COUNCIL MEMBER REYNA: --and  
public?

VERONICA CONFORME: That's just  
public school.

COUNCIL MEMBER REYNA: Okay, so I'm  
looking to then see--

VERONICA CONFORME: [interposing]  
So then we add on, if we do the non-public  
schools, there would be another projection.

COUNCIL MEMBER REYNA: As well as  
school age and preschoolers.

VERONICA CONFORME: Correct.

COUNCIL MEMBER REYNA: Because  
there's two separate categories.

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VERONICA CONFORME: Correct.

COUNCIL MEMBER REYNA: And so I  
want to--

VERONICA CONFORME: [interposing]  
So that's why it's a target. It's a target in the  
budget.

COUNCIL MEMBER REYNA: Right. So  
what is the target in a perfect world, as you had  
mentioned hypothetically, of the whole system  
under special needs, preschool and school age? We  
are still not including--go ahead.

MATT BERLIN: So \$167 million.

COUNCIL MEMBER REYNA: \$167  
million, that includes school age as well as  
preschooler as well as public school and non-  
public school.

MATT BERLIN: Yes.

COUNCIL MEMBER REYNA: What would  
be the figure under a charter school because  
charters would not be considered public? Would  
they be considered under the non-public?

MATT BERLIN: They're counted here  
in the non-public.

COUNCIL MEMBER REYNA: They're

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counted here--

MATT BERLIN: [interposing] That's just where they're counted. I don't opine on their legal status, but where they're counted.

COUNCIL MEMBER REYNA: Right. So under the non-public and public there's \$167 million in a perfect world that you would be reimbursed for.

VERONICA CONFORME: Right. With overcoming all of the challenges that we've outlined.

COUNCIL MEMBER REYNA: Correct. My last question, Chair, and thank you, I wanted to just ask are your compliance percentages going to be--and dollar value, going to be included as an indicator within the MMR? It should be.

VERONICA CONFORME: I don't actually know, but we can look into that and get back to you.

COUNCIL MEMBER REYNA: It hasn't been. So I'm requesting that because I was just noticing that we couldn't get a clear picture as to where we've been, where we are and where we're going to be in projected years.

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2 VERONICA CONFORME: Right. So we  
3 can look into that.

4 COUNCIL MEMBER REYNA: Thank you.

5 CHAIRPERSON JACKSON: Go ahead.

6 CHAIRPERSON RECCHIA: Ms. Conforme?

7 VERONICA CONFORME: Yes.

8 CHAIRPERSON RECCHIA: I know you're  
9 looking at the close.

10 VERONICA CONFORME: Chair?

11 CHAIRPERSON RECCHIA: I'm a little  
12 confused. Could we find a chair for the Borough  
13 President of Manhattan? He came here just to hear  
14 you.

15 I'm a little confused. Before, you  
16 testified that \$100 million is at risk for five  
17 services that you're billing and now it comes out  
18 that it's for all the services.

19 VERONICA CONFORME: I'm not  
20 understanding the question. Do you mean that the  
21 \$100 million--

22 CHAIRPERSON RECCHIA: [interposing]  
23 The \$100 million in the budget.

24 VERONICA CONFORME: --projection is  
25 based on what we estimated that we could put

1  
2 together in a claim. We already knew walking into  
3 this that, for example, the \$18 million that's one  
4 of the other services that we can't claim for. We  
5 don't have the counseling staff that have the  
6 appropriate credentials. We already know that.

7 CHAIRPERSON RECCHIA: So that means  
8 we're down to \$82 million?

9 VERONICA CONFORME: No. In the  
10 projection of approximately \$100 million, in the  
11 projection we already discounted the fact that we  
12 could not claim for our counseling services.

13 CHAIRPERSON RECCHIA: Okay. So the  
14 \$100 million for 2012 from OMB, if we do not get  
15 reimbursed for that money, what do we do?

16 VERONICA CONFORME: We're in  
17 conversations with OMB to let them know step by  
18 step where we are in the process. They have  
19 helped facilitate the cross functional work with  
20 DOHMH. They are aware. I mean this is a  
21 projection. We are working hard towards the  
22 projection.

23 CHAIRPERSON RECCHIA: When do you  
24 think we will know how much we're getting  
25 reimbursed of this \$100 million?

1  
2 VERONICA CONFORME: So we've gotten  
3 a claim into the system of approximately \$30  
4 million already.

5 CHAIRPERSON RECCHIA: Already?

6 VERONICA CONFORME: Yes. We are  
7 submitting another claim towards the end of the  
8 year. Once we get that claim together and  
9 actually see--

10 CHAIRPERSON RECCHIA: [interposing]  
11 The end of what year?

12 VERONICA CONFORME: This fiscal  
13 year for the services of the prior year. Once we  
14 get that claim in we will have a better estimate  
15 on what we--

16 CHAIRPERSON RECCHIA: [interposing]  
17 And how much is that claim going to be for?

18 VERONICA CONFORME: Well we don't  
19 know. These are the challenges that we've been  
20 outlining that we're trying to resolve in order to  
21 be able to claim for this year's services.

22 CHAIRPERSON RECCHIA: Okay.

23 CHAIRPERSON JACKSON: Thank you.  
24 We've been joined by our colleagues Dan Garodnick  
25 of Manhattan and David Greenfield of Brooklyn.

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2 Also, we've been joined by our Borough President  
3 of Manhattan, Scott Stringer. Let us turn to our  
4 colleague Jimmy Vacca of the Bronx, followed by  
5 David Greenfield of Brooklyn.

6 COUNCIL MEMBER VACCA: Thank you,  
7 Mr. Chair. I have just one or two questions  
8 because my understanding is that these  
9 irregularities were found out by a whistleblower?

10 VERONICA CONFORME: My  
11 understanding is that they were found out by a New  
12 York State upstate employee and the irregularities  
13 were based on New York State data.

14 COUNCIL MEMBER VACCA: Okay. But  
15 the irregularities were pointed out by a  
16 whistleblower.

17 VERONICA CONFORME: That's my  
18 understanding.

19 COUNCIL MEMBER VACCA: Okay.  
20 During the time period that the whistleblower  
21 indicated that there were these irregularities,  
22 were there not audits done at DOE? Why did this  
23 go on for years and why did the whistleblower have  
24 to blow the whistle? Why wasn't this found out?  
25 Why didn't we know that we had people working

1  
2 there who basically couldn't figure out how to  
3 work the computer and do the forms right? If this  
4 was done by the old community school boards  
5 there'd be a cry. How could this be? This is  
6 submitting reimbursement forms?

7 VERONICA CONFORME: Okay. I'm  
8 going to have Matt Berlin answer that question.

9 MATT BERLIN: So the whistleblower  
10 and the review by the federal government was based  
11 on the work that the state did and New York City  
12 doesn't audit the state. So the deficiencies were  
13 found in the state system. Because the city  
14 benefited from the state's poor controls or  
15 problems, the city was required to pay back--what  
16 is it--about 20 percent of it, because we  
17 benefited from it. But in fact, the finding was  
18 not that the city did something wrong, but the  
19 state had lax controls.

20 COUNCIL MEMBER VACCA: But there  
21 was money there that the city should have gotten  
22 that we never did receive. We verified this in  
23 the testimony today.

24 MATT BERLIN: No, no, that's  
25 different--

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COUNCIL MEMBER VACCA:

[interposing] There was no money that you should have received that you did not? You got all the money coming to you?

VERONICA CONFORME: Not based on the years of the claim. And the years of the claim that were audited were 1993 through 2001.

COUNCIL MEMBER VACCA: Right. So New York City received all the money that we were supposed to have gotten.

VERONICA CONFORME: During those years, that is correct.

COUNCIL MEMBER VACCA: So this is all a problem with the state?

CHAIRPERSON JACKSON: We had to pay back \$100 million.

VERONICA CONFORME: That's correct.

CHAIRPERSON JACKSON: Let's not forget \$100 million is \$100 million.

VERONICA CONFORME: Right.

CHAIRPERSON JACKSON: And I said earlier, '93 to 2001 was not Bloomberg's administration, but the bottom line is he's the mayor now.

1  
2 VERONICA CONFORME: Right, that's  
3 correct.

4 COUNCIL MEMBER VACCA: You  
5 mentioned training before. How many DOE employees  
6 have gone through the required training for the  
7 Medicaid compliance plan now, including top level  
8 people? How many people and have top level people  
9 gone through this training so that this will not  
10 happen again?

11 MATT BERLIN: So over 9,000 people  
12 have gone through the training so far this year,  
13 including the three people sitting at this table?

14 CHAIRPERSON JACKSON: How many do  
15 you have left to train?

16 MATT BERLIN: So it's like 4,000  
17 and change.

18 CHAIRPERSON JACKSON: When are they  
19 going to be trained?

20 MATT BERLIN: They're going to be  
21 trained this spring. We track them. It's an  
22 online training and we track it in a database.  
23 Last year we were perfectly compliant with our  
24 training and we will this year as well.

25 COUNCIL MEMBER VACCA: Whoa, whoa,

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whoa, who does the training?

MATT BERLIN: The training is provided by the state of New York.

COUNCIL MEMBER VACCA: Department of Education?

MATT BERLIN: Education and Health worked together on the Medicaid and educational program.

COUNCIL MEMBER VACCA: You mentioned online, the training is done in person or online?

MATT BERLIN: So you can either go to a training session in person or you can do it online. They provide options for either.

COUNCIL MEMBER VACCA: I would think that the training should be done in person. I would think that that's a more effective training. If people have questions, if people are not as computer savvy as others, I think an online training aspect requires a certain discipline that a classroom may not. But I would think that you'd want to have more of a face to face.

MATT BERLIN: So we had two weeks of training in November that was in person at St.

1  
2 Francis College in the auditorium. We notified  
3 everyone and many people did attend those. And  
4 people that prefer in person training can go to  
5 that. But certainly for some people it's easier  
6 to do the training online. They'd rather not have  
7 to travel there. So the idea was to give options  
8 to people.

9 COUNCIL MEMBER VACCA: I appreciate  
10 your remark. I am not posing my questions based  
11 on what's easier for people, I'm posing my  
12 questions based on what I think is more effective  
13 for us as taxpayers and educators. I would think  
14 that an in person training is more effective. It  
15 may be inconvenient for people but I think that  
16 that's part of their job. Sometimes we have jobs  
17 and we have inconveniences. So I would urge that  
18 this training be done in person. There's nothing  
19 like a personal contact. I don't know how we  
20 could even think that there would be a comparable  
21 training aspect between the two. I'd like you to  
22 revisit that because we never want this to happen  
23 again. I'm sure you don't either.

24 VERONICA CONFORME: The training--

25 COUNCIL MEMBER VACCA:

1 [interposing] We want the training done correctly.  
2  
3 It's important.

4 VERONICA CONFORME: Absolutely. We  
5 obviously encourage people to participate in the  
6 trainings both online and in person. The training  
7 is set by the state and so they offer both.

8 CHAIRPERSON JACKSON: It's one  
9 thing as a state office, but you can direct  
10 employees that they must attend in person. Am I  
11 right or wrong?

12 VERONICA CONFORME: Potentially,  
13 yes, we could.

14 CHAIRPERSON JACKSON: No, it's not  
15 potentially. Am I right or wrong? It doesn't say  
16 that--they can't tell you that employees can go  
17 online. You can direct employees that they must  
18 attend the training in person. Come on. Let's be  
19 transparent. Let's be real. Is that right or am  
20 I wrong?

21 VERONICA CONFORME: I think we  
22 might be able to direct. I'm not trying to be un-  
23 transparent. I'm just telling you that--

24 CHAIRPERSON JACKSON: [interposing]  
25 All right, Veronica.

1  
2 VERONICA CONFORME: --we would  
3 check with the state if we could direct people to  
4 just do the training--

5 CHAIRPERSON JACKSON: [interposing]  
6 I don't even think you need to confer with the  
7 state. Go ahead, Jimmy, turn on your mike first.

8 COUNCIL MEMBER VACCA: If I can  
9 conclude, if these people work for you, you don't  
10 need permission of the state to direct them on  
11 what the training will be.

12 CHAIRPERSON JACKSON: That's right.

13 COUNCIL MEMBER VACCA: The state  
14 gave options. We have the right as the City of  
15 New York to insist on what the training should be.  
16 So I would make that request of you that that  
17 training be in person, that there be a presence of  
18 people. I think that we want that. That's the  
19 best. If somebody else in Buffalo does something  
20 different, that's their business. I'm concerned  
21 with what we do here.

22 CHAIRPERSON JACKSON: So clearly in  
23 your response to Council Member Vacca, it  
24 basically says that you've given employees that  
25 want to attend the training in person or online.

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2 I didn't hear that employees were mandated to take  
3 the training either online or in person. So my  
4 question is it mandated?

5 VERONICA CONFORME: Yes, it's  
6 mandated.

7 CHAIRPERSON JACKSON: How do you  
8 verify? I mean it's an automatic system where you  
9 have to read and then before you go to the next  
10 whatever in the computer that you must certify?

11 VERONICA CONFORME: Yes.

12 CHAIRPERSON JACKSON: Okay. How  
13 many people have not attended the training and  
14 what if anything have you done about it?

15 MATT BERLIN: It's about 4,000 and  
16 we sent reminders to them.

17 CHAIRPERSON JACKSON: No, I'm not  
18 talking about that have not come up for the  
19 training. Of the 9,000, do you have 50 or 100 or  
20 200 that have not done one or the other?

21 MATT BERLIN: No, it's over 13,000  
22 that need to be trained. And of those, over 9,000  
23 have been trained, so about 4,000 have not been  
24 trained.

25 CHAIRPERSON JACKSON: Okay. So

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tell me what percentage, of the 9,000 have chosen online versus in person?

VERONICA CONFORME: We don't have that data right now but we can get that to you.

CHAIRPERSON JACKSON: How do you track it then? How do you know?

VERONICA CONFORME: We take attendance. So we take attendance in the in person--

CHAIRPERSON JACKSON: [interposing]  
In person?

VERONICA CONFORME: That's right, and the online training is tracked, obviously, electronically.

CHAIRPERSON JACKSON: Electronic.

VERONICA CONFORME: Right.

CHAIRPERSON JACKSON: Can you get back to us with the numbers of those that have been trained already?

VERONICA CONFORME: Yes, absolutely.

CHAIRPERSON JACKSON: Thank you.  
Let me turn to our colleague--Steve Levin--but Greenfield goes first if you don't mind. Council

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Member David Greenfield of Brooklyn.

COUNCIL MEMBER GREENFIELD: Thank you, Mr. Chairman. So I think you were saying before that there were three things that you need to get to full Medicaid claim capacity. The first was to get more orders for services. What were the other two items?

VERONICA CONFORME: Sure. I'll have Matt answer that question.

MATT BERLIN: So the second is for the occupational therapists and the physical therapists and the nurses who work with us to provide us or to get if they don't have and to provide us with national provider ID numbers. In the case of physical therapists, for them also to let us know the name of the training program they attended and when they graduated. So that's the second thing: information from nurses, OTs and PTs.

Then the third thing is to get permission from the UFT or from the members that our speech language pathologists to use their license numbers and in fact to obtain their license numbers and also to get NPIs so that we

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can bill for their services.

COUNCIL MEMBER GREENFIELD: On the second two items, what's the slowdown exactly? In terms of getting the information, what's the challenge?

VERONICA CONFORME: We've been in conversations with the UFT and we have to come to an agreement.

COUNCIL MEMBER GREENFIELD: On getting the information?

VERONICA CONFORME: Yes.

COUNCIL MEMBER GREENFIELD: On both items?

VERONICA CONFORME: Specifically on the SLPs.

COUNCIL MEMBER GREENFIELD: That was the third item. But on the second item, the OTPT, to get that information, is that contingent on--

VERONICA CONFORME: [interposing]  
It's about--

COUNCIL MEMBER GREENFIELD: --the UFT participation as well?

VERONICA CONFORME: It's about

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asking and getting the information from the employees.

COUNCIL MEMBER GREENFIELD: Okay.

So?

VERONICA CONFORME: And we have, we are asking them.

COUNCIL MEMBER GREENFIELD: You're asking them but you haven't gotten the information yet?

VERONICA CONFORME: Not fully.

COUNCIL MEMBER GREENFIELD: When you say get more orders for services, that involves doctors and nurse practitioners getting these orders for the IEPs?

VERONICA CONFORME: That's correct.

COUNCIL MEMBER GREENFIELD: What kind of investment have you made in hiring more professionals to get more orders?

VERONICA CONFORME: Matt?

MATT BERLIN: So we've hired 20 individuals who are now getting orders. And we are exploring, depending on how you count, four or five other ways of doing that. So, one is expanding the number of nurse practitioners,

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2 doctors and even physical assistants that we've  
3 hired. We are letting out a state contract to get  
4 people because we think that's probably quicker  
5 than hiring them individually, though we've had  
6 ads running in newspapers and we've talked to  
7 recruiting organizations. We've even had ads on  
8 our website. So one is simply continuing that but  
9 expanding it. Second--

10 COUNCIL MEMBER GREENFIELD:

11 [interposing] How many new attorneys have you  
12 hired to challenge the requests by parents for  
13 placements of their children in contract schools?  
14 I saw recently that there's been a significant  
15 investment in that.

16 VERONICA CONFORME: We haven't  
17 actually hired attorneys associated with contract  
18 schools. We have--

19 COUNCIL MEMBER GREENFIELD:

20 [interposing] For special ed challenges.

21 VERONICA CONFORME: We have hired  
22 attorneys associated with the Carter cases, which  
23 is obviously when families are suing us and that  
24 is responding to the lawsuits that we're  
25 receiving.

1  
2 COUNCIL MEMBER GREENFIELD: How  
3 many new attorneys have you hired?

4 VERONICA CONFORME: Do we have that  
5 information? We don't have that information on  
6 hand but I'd be happy to get that to you.

7 COUNCIL MEMBER GREENFIELD: I mean  
8 a guesstimate?

9 VERONICA CONFORME: Eight  
10 attorneys. Commensurate with the number of Carter  
11 cases that we're seeing to be able to handle those  
12 cases. So nobody has been hired specifically for  
13 contract schools.

14 COUNCIL MEMBER GREENFIELD: So  
15 you're saying all the new attorneys that you've  
16 hired, the only reason that they've been hired is  
17 to respond to the cases? I mean that's not what  
18 we're being told by--

19 VERONICA CONFORME: [interposing]  
20 To respond to the Carter cases, that's correct.

21 COUNCIL MEMBER GREENFIELD: That's  
22 not what we're being told by parents. I mean the  
23 reason I ask this is because it just seems like  
24 the DOE has spent a lot of resources and a lot of  
25 time and effort figuring out how to deny claims

1

2 from parents of special needs children. But when  
3 it comes to the ability to do the work to hire  
4 people to get the monies that you're entitled to,  
5 it seems like we haven't been that aggressive. Is  
6 that fair?

7

VERONICA CONFORME: No. We hired

8

staff--

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COUNCIL MEMBER GREENFIELD:

10 [interposing] Twenty staff? I mean that's a lot  
11 of staff.

12

VERONICA CONFORME: Not only for

13

the claims. We hire staff for special needs. We

14

hire additional OTs and PTs. We hire additional

15

speech staff every year. Special education

16

teacher numbers have increased, obviously,

17

commensurate with the need. So I wouldn't say

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that we only hire staff to respond to cases.

19

COUNCIL MEMBER GREENFIELD: Let me

20

ask you this question, you know I notice a lot in

21

the testimony a lot of the blame seems to fall, at

22

least from your perspective, seems to fall on the

23

state and the federal government. To what extent

24

were you involved in terms of either trying to set

25

up those guidelines, the new guidelines with the

1  
2 state or advocating with our congressional  
3 representatives down in Washington, DC to sort of  
4 try to change the formula? I think you guys said  
5 it was around 18 percent that you're receiving, it  
6 should have been 40 percent. So have you guys  
7 been doing work on that end?

8 VERONICA CONFORME: On the over ed  
9 special ed reimbursement that's not--oh, you're  
10 talking about the Medicaid work or are you talking  
11 about IDEA? I just want to be clear.

12 COUNCIL MEMBER GREENFIELD: I'm  
13 talking about both. I mean in your testimony you  
14 placed a lot of the blame on the state  
15 regulations, correct, which say that doesn't match  
16 up with the way the DOE is running the system,  
17 correct?

18 VERONICA CONFORME: Right, that's  
19 correct.

20 COUNCIL MEMBER GREENFIELD: So I'm  
21 wondering to what extent--it's two separate  
22 questions--to what extent did the DOE go to the  
23 state and say hey this isn't really going to work  
24 out for us. You're creating a system that we're  
25 not going to be able to participate in, rather

1  
2 than sitting here at a hearing a few years later  
3 and saying hey, it's their fault?

4 MATT BERLIN: So we've been very  
5 proactive working with the state and federal  
6 government on changing regulations. On the  
7 federal level, we've been active and commented on  
8 and are working with our associates across the--  
9 our colleagues across the country to change the  
10 consent regulations to make that easier. With the  
11 state, we're both working with legislative  
12 representatives and also working directly with the  
13 State Department of Health on one of these  
14 approaches to getting more orders which involves  
15 changing the state's contract with the Medicaid  
16 managed care plans so that we can get orders  
17 directly from the doctors that work with the  
18 children.

19 COUNCIL MEMBER GREENFIELD: On the  
20 federal level, when you say that the reimbursement  
21 that you're getting is around 18 percent but it  
22 should be 40 percent, what have you been doing to  
23 change that equation as well?

24 MATT BERLIN: This is really about,  
25 the 18 percent is an average for states, is a

1 national average. So I just want to make that  
2 point clear. IDEA has been under funded for many,  
3 many years. The feds have attempted to increase  
4 that. It hasn't occurred yet. Medicaid was  
5 supposed to supplement that shortfall as a result  
6 of the onerous requirements. That's been  
7 difficult, as we've heard through the testimony  
8 today. But we are working, we are making  
9 recommendations where possible, but this is a  
10 federal government decision.

11  
12 COUNCIL MEMBER GREENFIELD: Okay.

13 So you can't point to anything concrete that  
14 you've done either in the federal government or in  
15 the state particularly, especially considering  
16 that--

17 VERONICA CONFORME: [interposing]

18 We just went over the state.

19 COUNCIL MEMBER GREENFIELD: No, I

20 understand that. But these are generalities.  
21 When we talk about the state, you guys sat at the  
22 table right? I mean you were there. You were  
23 part of the process. It just seems very  
24 convenient for me that today you're blaming--

25 VERONICA CONFORME: [interposing]

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We were not sitting at the table.

COUNCIL MEMBER GREENFIELD: You had no say in this whatsoever? So the new regulations came down, you were suddenly informed and you realized wow this is terrible and there was nothing that you could do about it despite that the Department of Education is the largest local educational authority in the State of New York.

VERONICA CONFORME: What we could do is what Matt outlined already.

MATT BERLIN: We've been very active. It is true that often the state doesn't, you know when New York City jumps or say jump, the state doesn't jump. We have been working very closely with the state to change the rules around Medicaid managed care, both the legislative and with the agencies, so that we can work directly with children's primary care providers to get orders.

In addition, as the state issues new regulations and even as it interprets the Medicaid regulations, I'm in touch with state officials every day about interpretations to those, about changes to those. We very much feel

1  
2 like we have a seat at the table and we are trying  
3 to engage with them.

4 COUNCIL MEMBER GREENFIELD: Once  
5 again, I'm a little bit confused about this issue.  
6 I apologize for harping but I just don't really  
7 understand. You say in your testimony that the  
8 new state plan and requirements move further  
9 towards a medical encounter based model rather  
10 than an educational model which is what the city  
11 has, right? Then you say well we've been working  
12 with the state. So if you've been working with  
13 the state, then why don't we have a similar model?  
14 Do you see what I'm saying? I mean New York City  
15 just doesn't have that say? It's okay, by the  
16 way, if you want to blame the state and say  
17 listen--

18 VERONICA CONFORME: [interposing]  
19 We don't actually have the say to say what the new  
20 plan will be.

21 COUNCIL MEMBER GREENFIELD: So what  
22 you're saying is we've been up there and we spoke  
23 to the state and, you know, we can document that  
24 we've made these objections to the state and the  
25 state didn't care and it's their fault. That's

1  
2 fine, I'm okay with that. That's just not what  
3 I'm hearing. What I'm hearing is we're blaming  
4 the state--and that's okay--but part of every  
5 organization's job, just like any corporation, you  
6 have terrific lobbyists who work for the  
7 Department of Education and we work with them all  
8 the time. So I'm just trying to understand. Did  
9 you not have a say in how these plans and  
10 requirements would be created? You just woke up  
11 one day and said "oh no, look what happened, this  
12 is terrible."

13 VERONICA CONFORME: We have voiced  
14 our opinions on this. Ultimately, the decision is  
15 not ours on how the plan would roll out.

16 COUNCIL MEMBER GREENFIELD: But you  
17 did voice your opinion--just a final point--you  
18 did voice your opinion before the plan was rolled  
19 out? Just to be on the record. You objected to  
20 the plan and despite the city's objections, the  
21 state went forward with that plan regardless?  
22 That is good as far as I'm concerned and then I'm  
23 very comfortable going back to my constituents to  
24 say what happened over here and say "call you  
25 local state legislator because they screwed up."

1  
2 I just want to understand what the DOE is saying.  
3 If that's what happened I accept that. But if  
4 it's not what happened, I think we deserve to know  
5 what exactly happened on such a significant issue  
6 as to these requirements, specifically this  
7 medical versus educational model.

8 CHAIRPERSON JACKSON: Thank you,  
9 Council Member. So can you respond specifically?

10 VERONICA CONFORME: Yes. The  
11 problem is correct. That is correct; it is a  
12 federal one, imposing medical rules on the  
13 educational system. The state had to meet the  
14 federal requirements.

15 CHAIRPERSON JACKSON: Right. And  
16 also, based on the audits that occurred in 2005,  
17 the Department of Education was notified that you  
18 must maintain all appropriate documentation so  
19 that when all of this stuff cleared away that you  
20 could submit. They start notifying as early as  
21 2005, based on the audit summaries that David  
22 Greenfield, I gave him one sheet, I think that's  
23 for speech on one side and transportation on the  
24 other. So it's not like you didn't know that this  
25 was coming down. In the audit they said start

1  
2 maintaining all of the documentation that's  
3 necessary for you to file for reimbursement.  
4 Isn't that correct?

5 VERONICA CONFORME: Well, that's  
6 exactly when we started to think about how to  
7 build a system to actually start to document that.

8 CHAIRPERSON JACKSON: But that's  
9 2005. This is 2012. That's seven years. You  
10 know, many children have gone through the system  
11 and you're still trying to find your way. Still  
12 trying to find a way, and as I said before, if  
13 this was private industry, you'd all be gone,  
14 because seven years is too long. I'm telling you.  
15 Let me stop right there because we have the  
16 borough president waiting. Steve Levin has a  
17 quick question or two and we're moving to Scott  
18 Stringer, our borough president.

19 COUNCIL MEMBER LEVIN: Thank you,  
20 Mr. Chairman. I will be very, very quick. So my  
21 first question is you stated in your testimony  
22 about the new requirements and that physical  
23 therapists must obtain a national provider  
24 identification number or that speech, occupational  
25 and physical therapists need that. Physical

1  
2 therapists must have graduated from a program  
3 accredited by the Commission on Accreditation in  
4 Physical Therapy Education. What are you doing  
5 now then, in addition to the speech language  
6 pathologist issue in the next paragraph? What is  
7 the Department of Education now doing then to get  
8 your speech therapists, physical therapists,  
9 occupational therapists in line? I mean are you  
10 lining up programs to get them now the proper  
11 accreditation? What's the plan? What is the  
12 Department of Education doing to fulfill those  
13 requirements? Because now they are the  
14 requirements, we're not changing that. What are  
15 we now doing to conform with those requirements?

16 MATT BERLIN: So we have asked the  
17 UFT to work with their members so that they will  
18 let us use the speech language pathologists'  
19 license. We believe about 60 percent of the  
20 speech teachers in the schools have. In addition,  
21 we will be asking the occupational therapist and  
22 physical therapists and nurses to provide, and the  
23 speech language pathologists, to provide us with  
24 NPRs, to go and get them. That's simple. That's  
25 a ten minute process on the internet.

1  
2 COUNCIL MEMBER LEVIN: Right, it  
3 doesn't seem that complicated, which is why I  
4 found it interesting that you brought it up as a  
5 major obstacle.

6 MATT BERLIN: Also, for the  
7 physical therapists to type in--we have an online  
8 system that they can just go in and tell us which  
9 program they graduated from.

10 COUNCIL MEMBER LEVIN: Okay. So  
11 then those don't seem like major obstacles. Did  
12 you submit a proposal to the UFT in writing?

13 MATT BERLIN: We did submit a  
14 proposal to the UFT about the speech language  
15 pathologists and we are--

16 COUNCIL MEMBER LEVIN:  
17 [interposing] When did you submit that to--

18 VERONICA CONFORME: [interposing]  
19 We have actually been talking to the UFT since  
20 last--

21 CHAIRPERSON JACKSON: [interposing]  
22 Council Member Levin, I' sorry. We went over  
23 this--

24 COUNCIL MEMBER LEVIN:  
25 [interposing] Oh, I'm sorry. I apologize.

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CHAIRPERSON JACKSON: --in detail.

The bottom line is they need to negotiate with UFT because the UFT contract does not allow that to happen. If they negotiate that then the licensed people will be able to seek reimbursement.

VERONICA CONFORME: Correct.

COUNCIL MEMBER LEVIN: Okay, I apologize.

CHAIRPERSON JACKSON: They're in negotiation.

COUNCIL MEMBER LEVIN: I was upstairs for a meeting. I apologize.

CHAIRPERSON JACKSON: That's okay.

COUNCIL MEMBER LEVIN: But there's still something that strikes me as incongruous here. The issue of between 2006 and 2010 with the other major school districts in the state, they sought reimbursement. So according to our briefing, between 2006 and 2010, the Department of Education filed no Medicaid claims for nursing services, occupational and physical therapy, psychological counseling, audiological evaluations or transportation. At the same time, they all did. Rochester, Buffalo, Syracuse and Yonkers

1  
2 did, in fact, do that and were reimbursed \$77  
3 million. I just don't understand why during that  
4 period of time they were able to do it. I  
5 understand the issue with we're a bigger school  
6 system and they're using paper and we're using  
7 computers or whatever. Why did we stop and they  
8 didn't?

9 VERONICA CONFORME: We were told to  
10 stop submitting any reimbursements.

11 COUNCIL MEMBER LEVIN: So were  
12 they.

13 VERONICA CONFORME: What they  
14 submitted was retroactive. So then they submitted  
15 the claims for that period of time, they didn't  
16 submit it within that period of time. They  
17 submitted it afterwards. And they were able to  
18 document the fact that they were able to come in  
19 compliance with the new regulations at that time.

20 COUNCIL MEMBER LEVIN: So they  
21 didn't submit claims for 2006 to 2010?

22 VERONICA CONFORME: My  
23 understanding is that they did not. Just  
24 confirming. My understanding is that they did  
25 not. I'll be happy to confirm that. The

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instructions were not to submit claims.

COUNCIL MEMBER LEVIN: Are you in contact with those school systems--

VERONICA CONFORME: [interposing]  
We are, yes.

COUNCIL MEMBER LEVIN: --to figure out best practices--

VERONICA CONFORME: [interposing]  
Yes.

COUNCIL MEMBER LEVIN: --and agree on things that--

VERONICA CONFORME: [interposing]  
That's correct.

COUNCIL MEMBER LEVIN: Okay. All right, thank you, Mr. Chairman.

CHAIRPERSON JACKSON: Thank you. First, let me thank you all for coming in. We appreciate it. Let me tell you, we have a long way to go. And even though you responded to a majority of all of the questions we put forward to you, in my opinion the answers were not as definitive as they should be.

I would recommend that you bring back some of the thousands of employees that were

1  
2 let go, set up training for them in order to do  
3 what's necessary to input all of the information  
4 at the various schools so you can seek the  
5 reimbursement of millions and millions of dollars.  
6 That will pay for the salary of these employees  
7 and be able to get more money back so you can hire  
8 more employees. That's what you need to do.

9 I recommend that you take that back  
10 to Chancellor Dennis Walcott and to whoever else.  
11 Bring back thousands of employees you let go. If  
12 necessary, set up a training for them and get the  
13 job done. Seven years since the audit summary  
14 saying make sure you maintain your documentation,  
15 make sure you maintain documentation. Even though  
16 the rules have changed, you and I know for  
17 reimbursement you have to cross the T's and dot  
18 the I's.

19 Once of the things in my opinion  
20 that has occurred at the Department of Education  
21 is constant turnover of staff. When you have  
22 constant turnover of staff, then you don't have  
23 the continuity from the experience. So please, in  
24 summary, we appreciate you coming in, but my  
25 conclusion: get your act together and get it

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together real quick.

We thank you for coming in. I know you may not agree with my conclusion but that's on the opinions that I've heard here today that the DOE, concerning this particular matter, you have a long way to go and you're losing hundreds of millions of dollars that we could literally have in our coffers. As you indicated that not only goes into the general fund but goes into the Department of Education funds. Thank you very much.

VERONICA CONFORME: Thank you.

CHAIRPERSON JACKSON: To be continued. Thank you. Now, ladies and gents, we're going to hear from the Borough President of Manhattan, Scott Stringer who our Speaker Christine Quinn, when she gave her opening statement, she complimented Borough President Stringer on his, I think report, on this particular matter.

For the record, we received testimony from the Council of Supervisors and Administrators dated today March 1st, concerning this particular matter and also from Karen Malone,

1  
2 a parent on Staten Island, we received testimony  
3 for the record. With that, excuse me ladies and  
4 gents. We're going to hear from the Borough  
5 President of Manhattan, Scott Stringer, on this  
6 particular issue of Medicaid claims for special  
7 education related services by the Department of  
8 Education. Welcome, Borough President Stringer.

9 SCOTT STRINGER: Thank you,  
10 Chairman Jackson and Chairman Recchia for giving  
11 me this opportunity to speak on this issue. I'm  
12 going to read some formal testimony. I also want  
13 to thank Speaker Quinn and all of you having this  
14 hearing. I think it shows real leadership on the  
15 part of the Speaker, the Council and all of you to  
16 bring in DOE and ask some very basic questions.  
17 I'm glad I was able to be here for some of the  
18 very tough questioning. I must say that you're  
19 certainly digging deep and I do think the  
20 conversation has to continue.

21 Last fall, when my office learned  
22 that for years, the New York City Department of  
23 Education has neglected to apply for federal  
24 reimbursement dollars for occupational, physical,  
25 and speech therapy services for special needs

1  
2 students, they were leaving millions in unclaimed  
3 benefits on the table.

4 For New York City taxpayers, the  
5 DOE's blatant mismanagement of this process would  
6 have been a hard pill to swallow under any  
7 circumstances. But it is especially troubling in  
8 the context of the deep cuts to the City budget  
9 that we have had to weather in recent years.

10 While working families in this city  
11 are pinching every penny just to get by, it is  
12 disturbing that the DOE is failing to stretch its  
13 dollars and is instead paying bills that the  
14 federal government is ready and willing to pick  
15 up.

16 When I raised this issue for the  
17 first time in an October 2011 letter to Chancellor  
18 Walcott, the response that I received from the DOE  
19 was, quote, "the Medicaid reimbursement process  
20 has become increasingly cumbersome," end of quote.  
21 Well this kind of excuse is utterly unacceptable  
22 and quite frankly, it's offensive, because when  
23 every other major city in the State except New  
24 York can successfully manage this so-called  
25 cumbersome process, one can't help but question

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DOE's fiscal stewardship.

In Buffalo alone, Uncle Sam paid back \$32.4 million dollars in reimbursements for services provided by the school district between September 2004 and February 2010, and I know you asked questions on that. We have to recognize that that was just a small portion of the \$558 million dollars that were claimed by school districts across the State. Yet not one penny from this pool of federal dollars went to New York City. Not one penny, not one dime. Almost a half a billion dollars in reimbursement, New York gets nothing, nada.

You would think that watching every other school district in the state collect millions in Medicaid reimbursements would serve as a wake-up call for the DOE. But no, they still haven't figured it out. Based on what I heard here today, they still don't understand what we're talking about.

Now, for the Council's review, I have enclosed the October 2011 letter that I sent to Chancellor Walcott. In this letter, I inquired about the specific steps the DOE was taking to fix

1  
2 problems with its Medicaid claim forms. Now I  
3 asked a couple of questions that you may have  
4 covered today, but for the record I want to ask  
5 them again. I asked for the name of the DOE point  
6 person for coordinating Medicaid reimbursement  
7 activities. I asked about rectifying outstanding  
8 technology issues relating to claim submission and  
9 for three months the DOE brushed my inquiries  
10 under the rug.

11 I sent a letter to the Chancellor,  
12 tried to get a direct conversation through my  
13 letter. Then shortly after press reports, most  
14 notably in the *Times*, once those reports surfaced,  
15 outlining the scale of the City's failure, I  
16 received a response from the DOE's Director of  
17 Public Affairs. The Director of Public Affairs.  
18 Now the responsible was entirely unsatisfactory  
19 but it was basically the ultimate disrespect.  
20 We're not taking this letter seriously, we're not  
21 taking these issues seriously and we will not want  
22 to address it.

23 Now I would encourage and I think  
24 you met the standard today, I would encourage the  
25 City Council to dig deeper into the litany of

1  
2 excuses the DOE is offering for their failures in  
3 this area.

4           There is no excuse for this. The  
5 state has called them out on this. Do not buy the  
6 argument that somehow the state has put them in  
7 this precarious situation based on regulations.  
8 The state in its own inquiry said to them what are  
9 you doing, where's your action, where are your  
10 reimbursements, what's going on here.

11           So I think you've raised some very  
12 important issues. We have to continue this. You  
13 know, we're about to go through the traditional  
14 budget dance and they're going to talk about  
15 cutbacks and they're going to talk about a whole  
16 litany of issues and payments. They're going to  
17 talk about resources and all that we hear from  
18 them for years. But there is a whole lot of money  
19 sitting out there. The federal government,  
20 they're waiting to give us this money. We're  
21 entitled to this money. There is no issue as to  
22 whether this reimbursement should come to New York  
23 City. But the reason we have failed is because of  
24 poor staffing, poor computerization, lack of  
25 training. It is absolutely a New York City

1  
2 embarrassment. I think we should hold their feet  
3 to the fire.

4 I want to again thank Chairperson  
5 Jackson and Chairperson Recchia for holding this  
6 important hearing. There is no reason why we have  
7 to saddle taxpayers with tens of millions of  
8 dollars in extra costs when this money is supposed  
9 to come back to us. So thank you all very much.  
10 I will work with you and the Speaker to get to the  
11 bottom of this in future hearings. Thank you.

12 CHAIRPERSON JACKSON: Well, Borough  
13 President Stringer--

14 SCOTT STRINGER: [interposing] And  
15 I'm going to leave you these letters.

16 CHAIRPERSON JACKSON: Yeah. Let me  
17 thank you for your leadership. Our Speaker  
18 indicated your leadership on this particular  
19 matter. As you know, working together as  
20 advocates and as legislators, hopefully we will  
21 light a fire under DOE to do the right thing. You  
22 may have heard me say earlier when you were here  
23 that is this was private industry, a whole slew of  
24 them would be fired. This would be totally  
25 unacceptable.

1  
2 SCOTT STRINGER: Well, the DOE acts  
3 like they are in private industry so I think this  
4 is going to be very interesting for them to hear  
5 form you.

6 CHAIRPERSON JACKSON: Even though I  
7 know and it says for the record as far as we know  
8 that from 1993 to 2001 that the Bloomberg  
9 administration was not, it was the Giuliani  
10 administration and they were taking part blame for  
11 that. But from 2002 on to 2012, it's been the  
12 Bloomberg administration. The buck stops with  
13 whoever's in charge.

14 SCOTT STRINGER: You've made that  
15 very clear, both of you.

16 CHAIRPERSON JACKSON: So we thank  
17 you for your leadership.

18 SCOTT STRINGER: Thank you, sir.

19 CHAIRPERSON JACKSON: Please keep  
20 pushing on this particular matter, because as we  
21 said earlier, thousands of employees were let go  
22 last year. Let's bring those employees back, if  
23 necessary train them to input all of the  
24 information. We'll recoup hundreds of millions of  
25 dollars that will employ more people.

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SCOTT STRINGER: Thank you.

CHAIRPERSON JACKSON: So hopefully we'll get it done.

CHAIRPERSON RECCHIA: Mr. Borough President, I just want to thank you and thank your leadership on this. I just wish I would have had your letter before today, because I would have requested Mr. Speiller to come and testify before us and see what his knowledge is in special needs.

SCOTT STRINGER: I wish I had called your earlier. I would have loved to have seen that as well. I apologize for--

CHAIRPERSON RECCHIA: [interposing] I understand your frustration with this. I really think we need to have--there are two big issues here: billing and services. I think we had the people here today with the Medicaid billing, but I think the other big problem is services and filling out IEPs and that is something I think we really have to discuss with Ms. Rodriguez to correct us and move in the right direction. But I want to thank you.

SCOTT STRINGER: Thank you. I thank both of you again. Thank you, Council

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Members. Thank you.

CHAIRPERSON JACKSON: Now, we're going to hear from Mike Mulgrew from the United Federation of Teachers. Hi, Mike. How are you doing? Good.

[Pause]

CHAIRPERSON JACKSON: Well, Mr. Mulgrew, let me thank you for coming on behalf of the members of the United Federation of Teachers. I know that you may have heard Borough President Stringer. You may have been here for some of the testimony. I know some of your staff were. This has been a whirlwind morning--

MIKE MULGREW: [interposing] Yes.

CHAIRPERSON RECCHIA: --where Domenic Recchia, the Chair of our Finance Committee, our Speaker Christine Quinn and I, we spoke of how important this is and that fact that we have lost, in my opinion, hundreds of millions of dollars and thousands of employees have been let go. We feel that if we got all of the money we rightfully deserve, all of these employees could still be on the payroll and children would be receiving the services that they rightfully

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deserve.

So let me thank you for coming in and we look forward to your testimony.

MIKE MULGREW: Thank you. Thank you, Chairman Jackson, Chairman Recchia and all of the members of the committee. I would also like to thank Borough President Stringer for his leadership on this. I have been waiting over a year and a half for this day.

I've read the Department of Education's testimony this morning. I have been informed of what they have said today. I will first start by taking their numbers, their estimates and let's just put them into perspective. I understand they would like everyone to believe that at maximum it would only be \$160 million. I will conservatively estimate that the number every year, and I'm being extremely conservative, is at least \$525 million. I will start with a very little portion of this.

Right now, in District 75 and in Special Ed pre-k, we have 60,000 children who are being serviced, who get transportation to and from their school every day. The transportation rate

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2 under the federal reimbursement number would be  
3 \$20 per day. It's \$10 each way. So, you take  
4 those 60,000 children and you times them by \$20  
5 per day and that's \$1.2 million a day. You times  
6 that by every day that they go to school. These  
7 are 12 month students. Just there alone, it is  
8 \$240 million that is owed to the City of New York,  
9 just on those 60,000 students and their  
10 transportation needs. This says nothing about the  
11 reimbursements for their services or about the  
12 other tens of thousands of children who are also  
13 being transported and are receiving services.

14 So for the Department of Education  
15 to sit here and testify that we're talking about  
16 \$160 million is actually par for the course with  
17 everything else in this issue and how they have  
18 handled it. They have misrepresented and  
19 blatantly lied about the things that are going on.

20 So I will just talk about we have  
21 1,600 occupational therapists and 2,100 speech  
22 therapists in New York City. We have \$300 million  
23 that are being outsourced to private contractors  
24 for those same services. If I conservatively  
25 estimate that, it would be \$260 million a year on

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2 the reimbursement. You get another \$175 million a  
3 year for reimbursement if you look at just the OT  
4 and PT services for pre-k students. And then  
5 another \$90 million, conservatively estimated, on  
6 transportation costs for other students who are  
7 receiving special ed services. That alone adds up  
8 to \$525 million.

9 I believe the estimate, and we are  
10 being very conservative, but I think it would be  
11 sound for me to say, and I'm sure if people would  
12 look at this, it would be upwards of \$800 million  
13 to \$1 billion per year.

14 CHAIRPERSON JACKSON: We're losing  
15 out on?

16 MIKE MULGREW: Absolutely. That is  
17 our money which the taxpayers of New York City  
18 have already paid to the federal government which  
19 we have a right to reimburse.

20 I will take you through the  
21 timeline here. I'm sure the Department of  
22 Education spoke about what happened in 2005 and  
23 then what happened after it. Now, I'll give you  
24 exactly what really happened. There was a draft  
25 memo sent out from the state in the 09-10 year, a

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2 draft memo of how the new requirements for  
3 reimbursement were going to be done. The  
4 Department of Ed did nothing at that moment.  
5 Other districts across the state started to move.

6 One thing was clear in the draft  
7 memo. It said that you would need physician  
8 orders, notes from physicians about services. You  
9 would need that as a baseline documentation. The  
10 Department of Ed did nothing. In April of 2010,  
11 that became official and it was with the physician  
12 notes for the baselining of the data for  
13 reimbursement. It also said that we could recoup  
14 reimbursements back to September of 2009.

15 So the DOE and the city did nothing  
16 at that point. They hired someone, from what I  
17 understand, a chief whatever officer. They have  
18 so many I don't know what they are. But they  
19 hired someone, but they did nothing. And they  
20 then claimed to us that it was a burdensome and  
21 complicated process, over and over. This  
22 burdensome and complicated process, however, was  
23 somehow miraculously able to be navigated by other  
24 municipalities across the state who have far less  
25 resources than we do.

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2           So I would like for the Mayor and  
3 the Department of Ed, since they seem still not to  
4 be able to figure out how to navigate this  
5 burdensome and complicated process and they need a  
6 further expertise, they should contact the mayor  
7 of Buffalo, Rochester and Yonkers because they  
8 have figured this out.

9           So what the Department of Ed then  
10 did is since it never had the physicians put in  
11 the orders for the services, we now have forfeited  
12 our right to recoup the money from September 2009.  
13 So New York City will never be able to get that  
14 money back, while other municipalities across this  
15 state have.

16           Last year, in the middle of the  
17 Mayor threatening to lay off thousands of  
18 teachers, we became very vocal and loud about what  
19 was going on with Medicaid. The Mayor's Office  
20 said we were wrong and didn't know what we were  
21 talking about. The City Council started then,  
22 because we brought it up and you listened and you  
23 said what is this about, what is this about? And  
24 we kept going at it over and over again. So that  
25 began the sounding of the alarm as to what is

1  
2 going on. What I think may become the biggest  
3 disaster of the Bloomberg administration.

4 In June of last year, we asked the  
5 Department of Ed to meet about this issue because  
6 they would not meet with us, and it was only  
7 because the City Council was speaking about it at  
8 that time that they agreed to meet with us. The  
9 meeting, they had a large contingent of over ten  
10 people. It was an embarrassment to them. They  
11 didn't have a clue as to what we were talking  
12 about or how they were going to deal with it.

13 At one end they were saying we're  
14 developing the computer system known as SESIS, the  
15 Special Education Student Information System.  
16 They said they were going to fix everything with  
17 SESIS. And when we started asking them questions,  
18 one person at this side of the table said oh no,  
19 that section will a drop down menu. The other one  
20 at the other side of the table said no, they  
21 wouldn't. They said let's ask the expert who  
22 designed it. They said he left 20 minutes ago.

23 Since that point, all we have tried  
24 to do is make SESIS work and it has not worked. I  
25 don't know how to even explain SESIS. We have met

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2 with them over and over and over again to try to  
3 tell them what was wrong with their computer  
4 system. They spent \$80 million on something that  
5 doesn't work. We have told them you cannot enter  
6 the information. The system is constantly  
7 crashing. There are all sorts of things. We've  
8 had teachers testify throughout that city at  
9 public hearings. Even the other night, the  
10 Chancellor had to meet with occupational and  
11 physical therapists and he heard again that  
12 everything he said was fixed was not.

13 I want to put this in proper  
14 perspective. The Department of Ed, in use trying  
15 to work out how to get SESIS to work, we came to a  
16 standstill with them. This is unprecedented. The  
17 teacher's union has gone to arbitration to try to  
18 get the management's computer system to work.  
19 That is where we are at, at this moment. We have  
20 gone to arbitration to get management's computer  
21 system to work, because they will not fix it.

22 For years, these services, we have  
23 tried to make it an electronic filing system and  
24 for years we fought to get away from paper. We  
25 offered them over this, since last June, we said

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2 listen SESIS is not working; we will do it on  
3 paper. We need to get the Medicaid money. And  
4 they told us no. We won't let you do it on paper.  
5 So they have decided to forfeit the Medicaid  
6 reimbursements again for this year. This is  
7 hundreds of millions of dollars.

8           It's very hard and I do appreciate  
9 we're having this hearing. But when you have sat  
10 in public places with teachers and people  
11 providing very, very difficult services and listen  
12 to them over and over talk about how they were  
13 working 80 or 90 hours a week trying to fill out  
14 paperwork on an electronic system that doesn't  
15 work, and also continuing to provide the services  
16 that the children need and not once did we ever  
17 ask for a diminishment of case loads, to stop  
18 supplying the children services, even though the  
19 Department of Ed has told us to start doing the  
20 SESIS work, working on SESIS rather than doing the  
21 services for the children.

22           And then they come in here today  
23 and give you some show and then they say they are  
24 waiting for the UFT to respond to their offer.  
25 This is the offer. I received it yesterday

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2 afternoon at 3:30. It will not fix anything that  
3 we're talking about. They sent me this offer  
4 because they knew about this hearing today. I was  
5 in shock that they put something in writing, but  
6 then when I read their testimony this morning, I  
7 figured it out rather quickly. They have done  
8 nothing to fix this.

9           The Mayor says he needs to close 33  
10 schools because he can't forfeit \$60 million of  
11 federal money. And at the same time, he will not  
12 direct his own Department of Ed, that he is in  
13 complete control of, to tell them to fill out the  
14 paperwork and get us a half a billion dollars a  
15 year from the federal government that we already  
16 paid for. This is beyond disgraceful. I am sure  
17 this will lead to many lawsuits. Taxpayers want  
18 to know who is going to be held accountable. We  
19 already paid for these services.

20           And then they said, and I just go  
21 nuts when they say it's complicated. It's not  
22 complicated when everybody else figured it out.  
23 You spent \$80 million on a system. It doesn't  
24 work. You won't talk to anyone who has to use it.  
25 And you still sit there internally twiddling your

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2 thumbs and putting on political stunts because of  
3 a hearing because you know you don't have a plan  
4 on how to fix this.

5                   So I thank the City Council. I  
6 want to thank Vice President Carmen Alvarez,  
7 Special Education Vice President of the UFT, who  
8 has been on this like you would not believe. She  
9 would never leave this alone. She kept going at  
10 it and going at it and told them over and over and  
11 over again you are wasting our money and you are  
12 causing people a lot of harm and that is what is  
13 happening to the children of New York City as a  
14 result of their actions. Thank you very much.

15                   CHAIRPERSON JACKSON: Well thank  
16 you. We're going to turn to our colleagues, Chair  
17 Recchia and then Cabrera and Levin and Al Vann for  
18 questions. But we want to thank you because of  
19 your honesty and forthrightness about your  
20 assessment from a historical perspective is very,  
21 very important.

22                   One of the things that I said  
23 before they left is that one thing is constant  
24 about the Department of Education is the constant  
25 turnover of staff. You don't have the historical

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2 perspective for people that have been there that  
3 know what's going on. When you have this  
4 turnover, as I said, you have Chancellor Walcott,  
5 we had Chancellor Black, we had Chancellor Klein  
6 and chancellors before that and before that.

7 I understood, as I said earlier,  
8 from '93 to 2001, you know, it wasn't the  
9 Bloomberg administration, it was the Giuliani  
10 administration. But from 2002 to 2012, it's  
11 Bloomberg's administration. The buck stops with  
12 him. I'll turn to our colleague Domenic Recchia.

13 CHAIRPERSON RECCHIA: Thanks a lot,  
14 Mr. Jackson. First of all, Mr. Mulgrew, I want to  
15 thank you for your leadership. It's been great.  
16 You know, during the budget time last year, you  
17 brought this to our attention. We started making  
18 noise about it. I want to thank Carmen Alvarez,  
19 doing a great job, I work closely with her.

20 I have a question. We asked Ms.  
21 Conforme about everything that you brought up. We  
22 questioned her thoroughly about it. We hear from  
23 all of the therapists about the problems with the  
24 computer system. There are just not enough  
25 computers in the school. They all go down at

1  
2 night. They go home on their own time. I asked  
3 them, did they ever look to see what time all this  
4 stuff is being inputted? They couldn't answer me.

5 The other issue that, you know, I  
6 never got an answer to was if a therapist treats a  
7 child, they have to have five minutes to input  
8 their notes into the system. They can't even get  
9 into the system. But yet, these therapists are  
10 being penalized and putting pressure on if they  
11 don't get it. The principal is coming down on  
12 them.

13 You know, we heard what you're  
14 saying and we're going to stay on top of this and  
15 figure out how we're going to make this work, if  
16 it could work. I don't even know if it could  
17 work. I would love to see what they sent you.

18 But my question is you brought up  
19 this \$500 million, which is very disturbing.

20 MIKE MULGREW: Sure.

21 CHAIRPERSON RECCHIA: Did you  
22 figure out the--because parents have to sign the  
23 Medicaid form and a lot of parents do not sign the  
24 Medicaid form. Is that a threshold of \$500  
25 million of what we could get without parents

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signing it or does that take into--

MIKE MULGREW: [interposing] What we did was we did a very conservative estimate. We looked at all the services that are refundable. Then we added them up by the amount of services, the number of children, this, this, and that. But we cut the numbers almost in half on ever category and we still come up with \$500 million.

CHAIRPERSON RECCHIA: Yeah.

MIKE MULGREW: The transportation alone, the transportation alone, if you were able to reimburse for every child's transportation cost, that's almost \$500 million on its own.

CHAIRPERSON RECCHIA: Because a lot of people feel by the parents signing the Medicaid form that the school is responsible for getting signed, you know some people feel that they shouldn't sign it for their own--you know, why should you release this information to the DOE. This is a--

MIKE MULGREW: [interposing] You're talking to the UFT about releasing information to the DOE. I don't know if this is the appropriate week--

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CHAIRPERSON RECCHIA: [interposing]

I know.

MIKE MULGREW: And I would then understand the parent's apprehension.

CHAIRPERSON RECCHIA: No, but this is a big issue. I'm sure we're going to hear from the advocates. But I was just wondering about that issue because this is a big problem.

MIKE MULGREW: Look, parents want their children to get services if they need them. The Department of Education's job is to make it as easy as possible for the parents to receive the services and to make sure that we are being reimbursed the money that we have already paid the federal government for these services. Making it burdensome on the parents and on the schools and shifting the responsibility from them to the schools and the parents and the service providers is what's the problem here, the base of the problem, besides the gross incompetence of their management of everything about this issue.

CHAIRPERSON RECCHIA: Well, let me clarify one thing, because principals were being penalized.

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MIKE MULGREW: Yes.

CHAIRPERSON RECCHIA: And we clarified that issue this morning. Now they're not going to be penalized any more, because they were given points taken off. You know, they would lose compliance points--

MIKE MULGREW: [interposing] Yes, they were.

CHAIRPERSON RECCHIA: --in their ratings. And Ms. Conforme at first said no that they weren't but then we clarified that. They said they did way with that rule. So we're going to make sure all principals in the city know about that.

MIKE MULGREW: But the bigger issue is now we're in a squabble over SESIS.

CHAIRPERSON RECCHIA: Right.

MIKE MULGREW: And how that system was never designed for Medicaid reimbursement.

CHAIRPERSON RECCHIA: Well, Ms. Helen Diane Foster brought that up about the codes. Now is the SESIS codes in compliance with the Medicaid code, you know what I mean? It's a mess.

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2 MIKE MULGREW: It is a mess. But  
3 you have an entire department at the Department of  
4 Education who has been working on this for years.  
5 What did they do? I mean I feel the same  
6 frustration. It just blows my--could you imagine  
7 if you had \$80 million, do you think you could  
8 figure out how to at least get the codes correct?

9 CHAIRPERSON RECCHIA: Without a  
10 doubt.

11 MIKE MULGREW: I mean it is gross  
12 incompetence. That's the nicest way to say it.  
13 You know, I am sure this will lead to a lot of  
14 lawsuits because we're talking about a lot of  
15 money; we're talking about a lot of children  
16 services who have been affected because of all of  
17 this. Now they're saying, you know, they want us  
18 to concentrate on SESIS and whether it's working  
19 or not. We still don't know if that will qualify  
20 for the Medicaid reimbursement. They haven't  
21 answered that.

22 CHAIRPERSON RECCHIA: Well,  
23 according to them they think it's going to resolve  
24 all the problems.

25 MIKE MULGREW: Yes, it's going to

1  
2 resolve them. Yes, and I also heard that if we  
3 leave SESIS alone for the year with it not talking  
4 to the other computer systems, it will fix itself,  
5 this summer they told us.

6 CHAIRPERSON RECCHIA: Okay. My  
7 colleagues have questions.

8 MIKE MULGREW: Okay, sorry.

9 CHAIRPERSON RECCHIA: Mr. Cabrera?

10 COUNCIL MEMBER CABRERA: Thank you  
11 so much. I'm just sitting here baffled and at the  
12 same time I'm not surprised. This is my third  
13 year in the Council and every time I deal with the  
14 Board of Education, I get smokescreens, I get, you  
15 called it out, lie, and it's just a spirit of  
16 arrogance that I see from the other side. That we  
17 have it together, we can't take suggestions for  
18 anyone, so thank you for your courage. Thank you  
19 for speaking out.

20 Let me ask you this question, in  
21 terms of the paperwork, are you saying that at  
22 this moment it's better just to do the paperwork  
23 rather than to go electronically because SESIS is  
24 not working? Do you foresee that in the future we  
25 should electronically or should we just stay doing

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the paperwork?

MIKE MULGREW: No, we should absolutely be moving towards an electronic system, but one that works.

COUNCIL MEMBER CABRERA: Exactly.

MIKE MULGREW: It has to work. We offered to do it in paper because we said if you don't start doing the--it's September, right. So they put SESIS online last year. Carmen absolutely--excuse me--Vice President Alvarez absolutely says we've got a huge problem. This whole thing's a mess. It's a debacle. It's crashing and it doesn't even match the needs of the students. They never spoke to any service providers.

COUNCIL MEMBER CABRERA: That's ridiculous.

MIKE MULGREW: So come September they said everyone has to use SESIS starting September 7th, no matter what. We said no one's been trained. They said don't worry about it, we'll train them. September 7th came. We found out the training was scheduled for September 28th, but they want everybody to start using it on

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2 September 7th. They start the trainings as people  
3 literally we get reports from around the city,  
4 they're putting it up in the libraries on the  
5 screen and as they're working in SESIS, it's  
6 crashing in all the trainings.

7 COUNCIL MEMBER CABRERA: Wow.

8 MIKE MULGREW: We told them if you  
9 cannot fix this right now, these problems are so  
10 severe, we will go back to paper so we can get the  
11 Medicaid reimbursement. They said absolutely not.  
12 They would not agree to that. We only offered  
13 because the Medicaid reimbursement is so  
14 important. It's so much money. I mean our  
15 schools have been getting cuts so dramatically.  
16 They should have never been cut if we would have  
17 had our Medicaid reimbursement.

18 COUNCIL MEMBER CABRERA: You're so  
19 right.

20 MIKE MULGREW: And think of the  
21 decisions that you have to make every year,  
22 especially last year. Then here it is, there's  
23 this huge pot of money that was sitting there  
24 every year that they just didn't do anything  
25 about. So in terms of whether--we should always

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2 be moving towards and electronic system. We  
3 offered paper so we could get Medicaid  
4 reimbursement. They don't want to fix their  
5 electronic system and they don't want paper, which  
6 means to me is that they don't want to do the  
7 Medicaid reimbursement. And the fact that they're  
8 offering to get \$28 million this year? I mean  
9 can't they figure out just how to do the  
10 transportation?

11 CHAIRPERSON JACKSON: Thank you.

12 Anything else?

13 COUNCIL MEMBER CABRERA: The last  
14 question, I didn't get an opportunity to ask  
15 Veronica regarding this. Since we're working on  
16 the medical model rather than the educational  
17 model and we're not going to get reimbursed for  
18 school counselors, social workers, would it be  
19 right to start considering hiring licensed mental  
20 health counselors so they could get reimbursed?

21 MIKE MULGREW: We would have to  
22 look at the service. That is something we would  
23 absolutely sit down with the Department of  
24 Education. Right now, the speech services, we  
25 have a lot of our members who have the

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certificates that will qualify for the reimbursement. But they don't know that.

CHAIRPERSON JACKSON: But they said that's what they want to negotiate.

MIKE MULGREW: They want to negotiate it with us, right.

CHAIRPERSON JACKSON: They sent you the letter yesterday afternoon.

MIKE MULGREW: Yes. They want to. We told them last spring that we need to sit down because we have many of the people who have these certificates that will qualify for the reimbursement.

CHAIRPERSON JACKSON: Good.

MIKE MULGREW: And I'm glad yesterday they sent us the letter that they want to sit down and try to figure this out.

CHAIRPERSON JACKSON: Well maybe you'll come to conclusion for the betterment of the children and also getting money.

MIKE MULGREW: Yes.

CHAIRPERSON JACKSON: So hopefully they'll make you an offer you can't refuse.

CHAIRPERSON RECCHIA: He showed us

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what they produced.

[Laughter]

CHAIRPERSON RECCHIA: And he won't share it with us.

COUNCIL MEMBER CABRERA: Thank you so much.

CHAIRPERSON JACKSON: We're going to turn to our colleague Council Member Al Vann from Brooklyn.

COUNCIL MEMBER VANN: [off mic]

MIKE MULGREW: Very good.

COUNCIL MEMBER VANN: Thank you. Good afternoon, Mr. Mulgrew.

MIKE MULGREW: Good afternoon.

COUNCIL MEMBER VANN: I just have one question and I just need some understanding. You indicated that we, the city, DOE, forfeited our right to recoup Medicaid reimbursements for a number of reasons.

MIKE MULGREW: Yes.

COUNCIL MEMBER VANN: Now that implies that in the interim services were being provided to the eligible student population. Is that correct?

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MIKE MULGREW: Yes. Yes.

COUNCIL MEMBER VANN: All right.

So the service was provided. We're not going to be able to recoup the reimbursement. Who's going to pay for this and where is it coming from?

MIKE MULGREW: Well, it comes out of the school budgets. This is what's been going on for years now. Those services are being paid for out of our education budget. We pay the money.

Look, the taxpayers of New York City pay federal taxes. The federal taxes go to Washington. Washington has reimbursements for Medicaid. You have to send the paperwork to get the money back. The services are provided. If you don't go and get the money back, you're still paying for the services. So we're basically asking the taxpayers in New York City to pay twice for the services for the kids. And at the same time, that is why class sizes have skyrocketed. That is why all the programs have been cut throughout the city, because money has been going for services because we haven't been recouping our reimbursable.

1  
2 COUNCIL MEMBER VANN: That's a  
3 very, very, very serious situation--

4 MIKE MULGREW: [interposing] Yes,  
5 it is.

6 COUNCIL MEMBER VANN: That's quite  
7 an accusation.

8 CHAIRPERSON JACKSON: It's not  
9 accusation, it's a fact.

10 MIKE MULGREW: That's a fact.

11 COUNCIL MEMBER VANN: And you  
12 mentioned. Conservatively you say \$50 million?

13 MIKE MULGREW: \$500 million.

14 COUNCIL MEMBER VANN: \$500 million?

15 MIKE MULGREW: Yes.

16 COUNCIL MEMBER VANN: It could be  
17 more, it would be a little less but in that area.

18 MIKE MULGREW: Actually, that's a  
19 conservative estimate.

20 COUNCIL MEMBER VANN: That's a  
21 conservative estimate. And we're not getting  
22 reimbursed simply because of what now?

23 MIKE MULGREW: The Department of Ed  
24 has never figured out how to file for the  
25 reimbursement.

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COUNCIL MEMBER VANN: That's  
staggering.

MIKE MULGREW: I'm in an open  
public hearing, it's being recorded, and I can't  
believe I'm saying this because it just seems so  
absurd.

COUNCIL MEMBER VANN: It does.  
Thank you, that's the only question I have. Thank  
you.

CHAIRPERSON JACKSON: Council  
Member Steve Levin of Brooklyn.

COUNCIL MEMBER LEVIN: Thank you,  
Mr. Chairman. Thank you, President Mulgrew. It's  
becoming kind of clear to me throughout the course  
of this hearing today that SESIS is a boondoggle,  
right. I mean it seems as if--it's \$80 million.  
I mean I'm trying to put myself in the Department  
of Education's shoes and saying they've spent \$80  
million developing this computer system that  
doesn't work. So at a certain point, because  
you've invested so much money into it and so much  
time, you kind of rush to the defense of. It  
seems like a downward spiral. My question to you  
is does SESIS have any ability to actually be

1  
2 fixed? It's absurd to me, you know we're in a  
3 very technological society nowadays.

4 MIKE MULGREW: Yes.

5 COUNCIL MEMBER LEVIN: You know,  
6 we've got like a new iPad every six months and all  
7 these apps, right? I mean there are apps for  
8 phones that can do, like, all types of amazing  
9 things and yet the Department of Education can't  
10 seem to get a computer system that, I guess  
11 according to our briefing documents, the special  
12 notes, the--

13 MIKE MULGREW: [interposing]  
14 Session notes.

15 COUNCIL MEMBER LEVIN: --session  
16 notes, that portion of it doesn't actually even  
17 work. And that part is required for Medicaid  
18 reimbursement.

19 MIKE MULGREW: Yes.

20 COUNCIL MEMBER LEVIN: I'm just  
21 wondering, do you think it's better to scrap the  
22 whole thing and say let's go to a--you hire  
23 somebody that knows--

24 MIKE MULGREW: [interposing] My  
25 recommendation would be to shut it down, bring

1  
2 somebody else in. When we asked the Department of  
3 Ed who's in charge of the SESIS project, they say  
4 there is no one. It's been a group activity.

5 COUNCIL MEMBER LEVIN: What does  
6 that mean?

7 MIKE MULGREW: I don't know what it  
8 means.

9 COUNCIL MEMBER LEVIN: Okay.

10 MIKE MULGREW: It means that they  
11 all understand that it's a mess and they don't  
12 want to go near it. Remember, the Department of  
13 Ed now, for ten years, has never made a mistake.

14 COUNCIL MEMBER LEVIN: Right.

15 MIKE MULGREW: So I don't think  
16 they're going to admit one now when they're less  
17 than two years--

18 COUNCIL MEMBER LEVIN:  
19 [interposing] And \$80 million into the system.

20 MIKE MULGREW: It really is. And  
21 the \$80 million is just a tip. I mean we couldn't  
22 even--there are days students don't come to  
23 school. We had to fight with them to--there's  
24 days students don't come to school. The providers  
25 were responsible, had to get on the system and do

1  
2 the attendance and fill out all the information to  
3 say it's a non-attendance. They couldn't even do  
4 that. They couldn't even fix that.

5           Could you imagine it? You put in  
6 your code, it says that you're a speech therapist.  
7 You then have to fill out that you're a speech  
8 therapist even though your code says you're a  
9 speech therapist. And if you go to fix something  
10 after you enter it, it makes you restart the whole  
11 process all over again, and that's only if the  
12 system hasn't crashed while you're on it.

13           COUNCIL MEMBER LEVIN: Right.

14           MIKE MULGREW: Look, whoever is  
15 doing the--look, whoever is approving the  
16 contracts for the DOE, which would be the PEP,  
17 they've not done a very good job.

18           COUNCIL MEMBER LEVIN: Well, I  
19 thank you, President Mulgrew for bringing a lot of  
20 these issues into clearer relief for us. I mean  
21 just from my perspective as a Council Member that  
22 helps negotiate the city's budget every year, I'm  
23 not about to entertain the idea of any more of  
24 staff reductions in any capacity against our  
25 teachers, against our school aides, against those

1  
2 that are actually in our schools making it work.  
3 I'm not even going to allow that conversation to  
4 begin as long as this system is so utterly broken.  
5 I mean, as you said, \$28 million in reimbursement  
6 this year, out of a conservative estimate of \$500  
7 million, you know, what planet are we on?

8 MIKE MULGREW: Yeah.

9 COUNCIL MEMBER LEVIN: As Chairman  
10 Jackson said, I mean this would not fly for one  
11 day in the private sector.

12 MIKE MULGREW: No, it would not.

13 COUNCIL MEMBER LEVIN: Thank you  
14 very much. Thank you, Mr. Chairman.

15 CHAIRPERSON JACKSON: Well thank  
16 you very much, Vice President Alvarez and  
17 President Mike Mulgrew.

18 MIKE MULGREW: I want to make one  
19 more comment.

20 CHAIRPERSON JACKSON: Sure.

21 MIKE MULGREW: I'm sorry. What we  
22 had to do last year together, the UFT and the City  
23 Council, was some very, very difficult budget  
24 negotiations, and it was tough on all of us. We  
25 all had to figure out things so that we weren't

1  
2 going to lose any more teachers. And we all had  
3 to sacrifice and do things that were uncomfortable  
4 and we had to make very tough decisions. That  
5 should have never happened. It was a good moment  
6 for all of us that we figured it out. But the  
7 fact that the city's mismanagement of this entire  
8 process is what is causing these tough decisions  
9 and sacrifices is what is so deplorable and why  
10 I'm so upset. So thank you very much.

11 CHAIRPERSON JACKSON: Thank you.  
12 Next, we're going to hear from a panel of Ellen  
13 McHugh from Citywide Coalition on Special  
14 Education; Maggie Moroff for Advocates for  
15 Children of New York; Oroma H. Mpi, Esquire, Legal  
16 Services of NYC. She's with the Children with  
17 Special Needs of Legal Services in the Bronx. And  
18 Dominick Fortugno, Touro College, New York, NYASP.  
19 Please come forward.

20 [Pause]

21 CHAIRPERSON JACKSON: Before you  
22 begin, we just want to just ask you to identify  
23 yourself and what organization and then we're  
24 going to turn to our colleague Al Vann. Starting  
25 with you.

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ELLEN MCHUGH: Ellen McHugh.

CHAIRPERSON JACKSON: Speak into  
the mic please. Pull the mic up.

ELLEN MCHUGH: Ellen McHugh,  
Citywide Council on Special Education.

OROMA H. MPI: Oroma Mpi, Senior  
Staff Attorney in the Education Law Unit of Legal  
Services NYC Bronx.

MAGGIE MOROFF: Maggie Moroff.

CHAIRPERSON JACKSON: Press it  
again please.

MAGGIE MOROFF: Maggie Moroff,  
Education Policy Coordinator at Advocates for  
Children.

DOMINICK A. FORTUGNO: Dominick  
Fortugno, Director of the School Psychology  
Program at Touro College.

CHAIRPERSON JACKSON: We're going  
to turn to our colleague Al Vann of Brooklyn.

COUNCIL MEMBER VANN: Thank you,  
Chairman.

CHAIRPERSON JACKSON: Press the  
button.

COUNCIL MEMBER VANN: Thank you my

1  
2 distinguished Chairman. Good afternoon ladies and  
3 gentlemen. I apologize but I did have one  
4 question before I have to go to a meeting I was  
5 committed to. I'm not an expertise in this area,  
6 so you have to forgive me for the simplicity of my  
7 question. I'm having difficulty understanding why  
8 parents are not signing the reimbursement form,  
9 whatever the case may be, which seems to be at the  
10 crux of a bigger problem. Can you tell me, what  
11 is the difficulty as to why parents are not  
12 signing the necessary reimbursement form that  
13 seems to be the key to the reimbursement and the  
14 money flowing back to the city, to DOE, and so  
15 forth? What is the difficulty?

16 ELLEN MCHUGH: A few short years  
17 ago, Medicaid had a cap. So legislatively,  
18 Medicaid decided they would raise the cap and no  
19 longer ask that there be a cap on services or the  
20 cost of services that a parent can access. That  
21 was a few years ago. Then the legislature decided  
22 no, the Congress decided no, there'll no longer be  
23 caps.

24 As a mother of a child with a  
25 profound disability, I don't know what the

1 legislature is going to do next year or the year  
2 after and in many cases can't trust them to  
3 consider my child, who has a profound disability.  
4 So why would I trust them? Why would I trust  
5 anyone to give up, first my child's Medicaid  
6 number, his or her personal information and then  
7 say, okay, let's hope that they don't come back  
8 and decide legislatively that there will be caps?

10 Over the significant of a Charlie  
11 Hope, the Chair on Disability Advisory Council for  
12 Queens Borough President, there is an urgent  
13 action needed alert to all parents of children  
14 with disabilities, schools with specialized  
15 service, mental health, OPWW providers, advocates  
16 and seniors: you may lose your ability to have  
17 Medicaid benefits for your child or spouse.

18 The federal government, according  
19 to them and New York State policy, according to  
20 them, is looking to waive parent refusal, which  
21 means a parent can refuse to give information  
22 about their financial situation. So that their  
23 child with a profound disability can access  
24 Medicaid despite the parent's income. This is  
25 what came out.

1  
2 I mean I don't believe everything  
3 that's written and I sure as hell don't believe  
4 everything every politician says, which is going  
5 to get me in trouble right now. Present company  
6 excepted. But if this is going out over the Queen  
7 Borough President's Chair's signature, why would I  
8 as a parent trust anyone to take my kid's Medicaid  
9 number, access his or her personal medical  
10 information and assume that one, it won't get  
11 leaked and two, it's not going to have an effect  
12 on Medicaid provision to my child within the next  
13 few years.

14 Now my son is 34, despite my  
15 youthful appearance, but we have friends with  
16 other children who are 12, 14, 16. We don't know  
17 what's going to change. The Medicaid redesign  
18 teams in New York State have come out with some  
19 rather strange recommendations that as a parent I  
20 would object to. How would I know what the  
21 Medicaid redesign team is going to put into law  
22 through Cuomo's signature when I'm not involved in  
23 the Medicaid redesign team? They may hear from me  
24 but I have no access or input into that  
25 discussion.

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COUNCIL MEMBER VANN: So what--

ELLEN MCHUGH: [interposing] I'm a suspicious old biddy.

COUNCIL MEMBER VANN: So what's the worst you think could happen if parents were to sign? What is your fear based on what you are saying? That you would lose your ability to access resources for other very significant services that you need because--

ELLEN MCHUGH: [interposing] Sorry.

COUNCIL MEMBER VANN: No, go ahead.

ELLEN MCHUGH: If they did say that there was going to be a cap on services, I would have to make a real decision about whether or not I would want the Board of Education to bill for speech, language, OT, PT and other nursing services when I might be able to get them at home as a respite service because I have a child who's profoundly disabled. So on a Saturday or a Sunday, he or she might be denied access to a recreation program. On a Monday or a Friday night, he or she might be denied access to a respite program. Or on a Tuesday or a Thursday when someone is coming in for wound care or other

1  
2 medical tracheotomies, other stuff, he or she  
3 might be denied that service because it's done at  
4 the school. It's all a big "if" but as a parent  
5 of a child who may be in a situation that's life  
6 threatening, I don't need an "if," I need a  
7 positive.

8 CHAIRPERSON JACKSON: Any comments  
9 from the others in response to Council Member  
10 Vann? Identify yourself before you speak.

11 OROMA H. MPI: I'm Oroma Mpi. I'm  
12 a senior staff attorney in the Education Law Unit  
13 of Legal Services in the Bronx. It is built into  
14 the federal law that the Medicaid reimbursements  
15 for special education services would not affect or  
16 compromise the medical coverage outside of the  
17 school system. It's not supposed to affect any  
18 lifetime caps on coverage any home-based services.  
19 So I think there may just be a general distrust of  
20 sort of this document that the DOE is handing out  
21 for parents to sign. Even though it states that  
22 in no way it's going to compromise their child's  
23 medical coverage. It may just be a matter of  
24 really just not believing that or trusting that.

25 COUNCIL MEMBER VANN: That's a very

1  
2 important clarification. A very important  
3 clarification for me.

4 MAGGIE MOROFF: Maggie Moroff from  
5 advocates for children. The other thing that I  
6 would add to that is there's no plan right now and  
7 there's no apparent work on the part of the DOE to  
8 actually inform parents about the implications of  
9 it. I don't know that ultimately the same  
10 obstacle would exist. But that big "if" that both  
11 of them are talking about, it's out there and it's  
12 very present in the minds of parents and they're  
13 very, very worried about losing services and  
14 nobody is speaking to them about that. So they  
15 have no idea. You know if they sign the waiver,  
16 can they take it back? You know, what happens if  
17 their services are reduced?

18 DOMINICK A. FORTUGNO: One last  
19 comment to the same point. One of the things  
20 we've been seeing in a number of different schools  
21 has been this erosion of parent support, parent  
22 guidance through the evaluation process.

23 Speaking specifically of school  
24 psychologists, you're starting to school  
25 psychologists being boxed more and more into this

1  
2 role exclusively of testing whereas the school  
3 psychologists were often point people, principal  
4 contacts for parents to guide them through the  
5 evaluation process. One of those main tasks was  
6 to take the parent through all of their different  
7 options, through all of the different paperwork  
8 that they would have to work with.

9           Now certain roles like psychologist  
10 and advocates are being cut completely or scaled  
11 back. I think that erosion of parent support is  
12 going to continue to lead to an increase in fear.

13           COUNCIL MEMBER VANN: Who is  
14 advising parents as to their options overall  
15 within the system? I'm not talking about outside  
16 of the system. I think as a school psychologist  
17 you may be in a system, but Advocates for  
18 Children, New York Civil Liberties, Ellen McHugh,  
19 you're outside of the system. Who's  
20 responsibility is it to say okay, so you have a  
21 child with special needs. Here's the IEP, the  
22 individual education plan. Here are your options  
23 and what you have to do. Who's guiding or giving  
24 them what their options are?

25           DOMINICK A. FORTUGNO: It varies.

1 Oftentimes it'll vary from school to school.  
2 Originally in the schools where I worked, the  
3 school psychologist, I was responsible for working  
4 with parents, again pointing out parent rights,  
5 showing them the parent guidebooks. But now, like  
6 I said, a lot of school psychologists are  
7 continually being boxed into the role of just  
8 doing standardized testing.

10 COUNCIL MEMBER VANN: Okay.

11 DOMINICK A. FORTUGNO: At this  
12 point, we actually have a really extreme shortage  
13 of time within the day to actually consult with  
14 parents and speak with them. Just to put out a  
15 comparison, Nassau and Suffolk County is employing  
16 920 school psychologists to work with 457,000  
17 students. Here in the City of New York, we  
18 employ approximately 870 school psychologists to  
19 work with 1.1 million children. I mean there is a  
20 definite mismatch. We're starting to see, again,  
21 school psychologists spending more and more of  
22 their time just doing testing--

23 CHAIRPERSON RECCHIA: [interposing]

24 Could you say that again? Nassau and Suffolk  
25 what?

1  
2                   DOMINICK A. FORTUGNO: Nassau and  
3 Suffolk County, this data comes from the  
4 Information and Reporting Services from the  
5 Department of Ed's website. Approximately 920  
6 school psychologists to work with--and this is  
7 2009 data for the students--about 457,000  
8 students.

9                   CHAIRPERSON RECCHIA: And in New  
10 York?

11                   DOMINICK A. FORTUGNO: I believe  
12 it's approximately 870 school psychologists. I  
13 being your pardon? I'm sorry, 1,100. The numbers  
14 that are on the website say about--

15                   CHAIRPERSON RECCHIA: [interposing]  
16 1,100 school psychologist to work for 1.1 million,  
17 so that's one percent.

18                   ELLEN MCHUGH: The other logical  
19 source might be the social worker at the school,  
20 who would be able to work with the parent. Having  
21 said that, he or she is not readily available. So  
22 this has been falling on the parent coordinator to  
23 go reach out to the parent to ask the parent to  
24 sign. Nothing against parent coordinators, but  
25 they are not necessarily familiar with issues

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around parent involvement--

CHAIRPERSON RECCHIA: [interposing]  
Special needs.

ELLEN MCHUGH: --or Medicaid or  
even the provision of service for a child with a  
disability.

CHAIRPERSON RECCHIA: Parents are  
not even advised or aware that they could bring  
somebody into these meetings with them. No one  
tells them. No one tells them.

DOMINICK A. FORTUGNO: Correct.

CHAIRPERSON RECCHIA: I mean, it's  
very, very sad. Mr. Vann, Council Member, did you  
get all your questions answered?

COUNCIL MEMBER VANN: Yeah.

CHAIRPERSON RECCHIA: You're amazed  
right?

COUNCIL MEMBER VANN: Yeah.

CHAIRPERSON RECCHIA: It woke you  
up. Now, Ellen, would you like to go first?

ELLEN MCHUGH: I just wanted to  
point out after the board dissertation that the  
reason for the large meeting last Monday night  
with the PT and OT was that in October of 2011--

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CHAIRPERSON RECCHIA: [interposing]  
Could you put the microphone closer to you?

ELLEN MCHUGH: In October 2011, at  
a District 75 CEC meeting, parents and staff  
raised such a ruckus that the chancellor promised  
that he would have a meeting with the staff  
members.

CHAIRPERSON RECCHIA: Was this the  
meeting at Tweed that people--

ELLEN MCHUGH: [interposing] Yeah.

CHAIRPERSON RECCHIA: --that the  
people got locked out?

ELLEN MCHUGH: Yep. Joe Williams  
is here. He's the chairperson of the District 75  
CEC--

CHAIRPERSON RECCHIA: [interposing]  
I must have received, I can't tell you, hundreds  
of calls. I'll never forget that night.

ELLEN MCHUGH: Lori Podvesker is  
also here. She's from the Citywide Council on  
Special Education.

CHAIRPERSON JACKSON: And Jan was  
there too.

ELLEN MCHUGH: Jan was there too.

1  
2 CHAIRPERSON JACKSON: I remember we  
3 talked about it.

4 ELLEN MCHUGH: I couldn't get--I  
5 made the mistake of arriving at 5 after 6:00.

6 CHAIRPERSON RECCHIA: They put it  
7 in a room to hold 100 people.

8 ELLEN MCHUGH: Well it's easier  
9 then because then you control the crowd,  
10 theoretically, if not in fact. The other part  
11 about this is that although the DOE had this  
12 meeting and spoke to the OT, PT people, we were,  
13 as parents who instigated this, unaware totally of  
14 the meeting. We were not asked to attend the  
15 meeting which was with a union group, so it's  
16 quite possible that it would not have been  
17 appropriate for us to be there. However, we were  
18 not even aware that this meeting, which is a  
19 direct result of parent action, was scheduled. So  
20 it's a little surprising to me that they could  
21 defend their position on their outreach to  
22 parents.

23 Having said that, this is voluntary  
24 on the part of the mother or father. So in some  
25 ways it is defensive of the Board of Education to

1  
2 say that they're caught between a rock and a hard  
3 place if I, as a mother, don't want to sign. I  
4 don't need to be forced to do this. There are  
5 other pieces that because a part of this. We are  
6 worried that a system that can say there are  
7 168,000 students with IEPs, or 175,000 students  
8 with IEPs--they did that this morning--would not  
9 be some system that we could trust since they  
10 can't seem to get their numbers correct. We have  
11 heard as high as 180,000 students before you  
12 consider the child in pre-k and four and five year  
13 olds. So I'm not ready to believe that when you  
14 can't get your numbers right on that kind of stuff  
15 that you're going to get your numbers right on  
16 whether or not you're going to bill my child  
17 piece.

18           The other part that is upsetting to  
19 us as parents, people talk about the drop down  
20 units in SESIS. Anyone in a school who has the  
21 permission of a principal has access to SESIS. As  
22 a parent, we do not. A comparable issue is ARIS.  
23 ARIS is what our typically developing peers'  
24 parents can access to see if the child is meeting  
25 his or her goals. We are denied access.

1  
2                   One question we were told by the  
3 Department of Ed that they didn't want anybody to  
4 change anything. And that since this was a legal  
5 document that we were not legally bound to be  
6 there. The IDEA is very clear that the parent is  
7 a full and equal participant in the creation of  
8 the IEP and the selection of program and services.  
9 So, in that sense, although I haven't been able to  
10 convince any lawyer to go along with this, I think  
11 it's a denial of a due process right to be  
12 actively involved in creating the IEP and  
13 selecting the program and placement.

14                   We are still looking at the fact  
15 that this may be replacement money. We have no  
16 assurance from the DOE that the \$10 for each  
17 transportation, for each trip on a bus is going to  
18 be used for a child with special needs. We can  
19 get reimbursed but we don't know. We don't have  
20 access to Galaxy which is what the principals use  
21 to budget. We don't have access to how the  
22 principals are budgeting their money. We don't  
23 have input necessarily.

24                   The principal comes to the PTA, PTO  
25 or any other interested parent with an already in

1  
2 place budget that is 95 percent already budgeted  
3 because of salaries, benefits and so forth and so  
4 on. So you've got a 5 percent play around. We  
5 have no input in that. We can't even say well,  
6 you know what, make it a group session of  
7 therapies.

8 The DOE's insistence that this  
9 begins with the staff comes from a statement made  
10 by someone in District 75 that therapy, speech,  
11 language, OT, PT begin as soon as the child is  
12 picked up from a classroom. So if that person  
13 picks up somebody at 1:37 from a classroom and  
14 then goes at 1:32 to pick up somebody from another  
15 classroom and goes at 1:38--29 rather, to pick up  
16 a third person from the classroom, the child who  
17 got picked up at 1:32 is already four minutes into  
18 his or her therapy session.

19 CHAIRPERSON JACKSON: Even though  
20 no therapy has taken place.

21 CHAIRPERSON RECCHIA: Yeah.

22 ELLEN MCHUGH: To me that's like  
23 dumb.

24 CHAIRPERSON RECCHIA: Listen.

25 ELLEN MCHUGH: It's great, it's

1  
2 fun, you know you could look around, especially if  
3 it's speech and language, say look at the picture,  
4 look at the colors, look at this, look at that,  
5 but we're still four minutes into a session that  
6 another child is also being picked up for.

7 CHAIRPERSON JACKSON: And I think I  
8 heard the DOE or in a document, billing within 15  
9 minute blocks. Is that correct?

10 ELLEN MCHUGH: That's something new  
11 that we have heard has--

12 CHAIRPERSON JACKSON: [interposing]  
13 But that's what it said. Help me out here, other  
14 people.

15 ELLEN MCHUGH: Fifteen minute  
16 blocks.

17 MAGGIE MOROFF: That's my  
18 understanding.

19 CHAIRPERSON JACKSON: Okay.

20 CHAIRPERSON RECCHIA: Okay, next.

21 ELLEN MCHUGH: So how do you get  
22 the time in to do this and do it appropriately

23 CHAIRPERSON JACKSON: Hopefully  
24 from today they will be able to meet with the  
25 organization for parents, hopefully. If not, you

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need to reach out to us and let us know.

CHAIRPERSON RECCHIA: We will try to help you organize some type of meeting.

CHAIRPERSON JACKSON: Next please.

OROMA H. MPI: Again, my name is Oroma Mpi from Legal Services NYC. I'm a special education attorney, so I represent these parents and students with special needs, guiding them through that IEP process and finding the appropriate services they need.

As an advocate, I would advise my clients to sign this waiver releasing the information for reimbursement purposes. The reason is just the sheer impact that this additional funding can have on the public school systems, particularly we've--and we've discussed it this morning--even the most severely impaired students at District 75 schools are on waiting lists, numbers of like 80 percent, 90 percent of students on waiting lists for OT and speech and language services, because there's just no staff at the school to provide these related services that they need to increase their verbal ability to eventually live as independent a life as possible

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after high school.

Occupational therapy, I've seen that a lot of schools lack the staff occupational therapists. Things like visual/spatial training, travel training, tying your shoelace, putting on your clothes, all of these sort of life skills that we take for granted, these are things that students can learn in occupational therapy and yet it's not taking place at the school.

The DOE routinely issues these vouchers called related service authorizations, or RSAs, and they say that's sort of a sufficient remedy for all of these students who are at these schools without related services and in reality it's not an effective remedy. These lists are outdated. Parents have called each and every provider on the list and have only received like a handful of calls back. Of those calls back, you know no one has really been available to treat their child after school or on the weekends.

There are just these students who really need the related services, counseling during the school day, just to get through, you know, and function as a student. So our hope is

1  
2 that the additional funding could be used to staff  
3 more related services at the school.

4 Another issue we've seen is the  
5 lack of school-based mental health services.  
6 Because classroom teachers may not be adequately  
7 trained in handling students with challenging  
8 behaviors, students ultimately end up being  
9 excluded from the school environment.

10 So, you know, they'll call the  
11 parent day after day, please come take your child,  
12 pick your child up. They're misbehaving. Or in  
13 more egregious cases, we've seen multiple calls to  
14 emergency medical services to remove the child and  
15 take the child to a psychiatric emergency room.  
16 Also, we've seen exclusion in the form of school  
17 officials telling students that they cannot return  
18 back to school without a psychiatric evaluation  
19 performed or a medical clearance letter.

20 So we feel if there's additional  
21 funding, you know hopefully some of that would go  
22 towards school-based mental health services to  
23 reduce the interruption of these students'  
24 education.

25 Legal Services does applaud both

1  
2 committees for holding this oversight hearing. We  
3 hope that there will be some ongoing monitoring of  
4 the DOE on properly documenting these Medicaid  
5 claims.

6 CHAIRPERSON JACKSON: Thank you.

7 Next please?

8 MAGGIE MOROFF: Thank you, Chairman  
9 Recchia and Chairman Jackson for giving us this  
10 opportunity. As I said before, I'm Maggie Moroff  
11 from Advocates for Children. Very briefly--  
12 [background noise]--that's very disconcerting.

13 CHAIRPERSON RECCHIA: Right. Your  
14 time is not up.

15 MAGGIE MOROFF: Very briefly,  
16 Advocates works to protect every child's right to  
17 an education here in New York City. We do it in a  
18 number of ways. We do it through direct services,  
19 we do policy work, we do parent training and  
20 information.

21 We appreciate the opportunity to  
22 testify today and I will say right up front that  
23 we are not necessarily Medicaid experts at  
24 Advocates, but through the work that we do, we  
25 speak with many, many, many parents. We're here

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just to put some of their concerns on the table.

Sort of echoing both of my peers up here who have spoken already, parents do come to us and they ask us what to do when they do see these wavier forms. Very honestly, we're conflicted about how to advise them. It's not that we're opposed to getting the reimbursements for the state, obviously, but we have concerns about the implementation of the plan, as I said before, to get those waivers signed and to make sure that parents know what it is that they're signing.

We can't promise them that by signing the waiver it's going to lead to better delivery of special education services. Others have said already that they're not getting many of the services that they're entitled to receive already on their IEPs. And there's nothing that we've seen that will assure us that that's not going to be further reduced.

One of those concerns comes from the fact that now early intervention, preschool special education, school age special education programs are all going to be seeking reimbursement

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2 from Medicaid at the same time that Medicaid is  
3 seeking to reduce their own costs in a time of  
4 fiscal crisis.

5 We can't assure, as Ellen said  
6 before, that Medicaid won't ultimately cut  
7 benefits. There are statements in the law about  
8 how DOE access to Medicaid and private insurance,  
9 which I know we're not talking about, shouldn't  
10 reduce the levels of service in these areas and  
11 with regard to the rates, but it's really hard for  
12 us to imagine how that's going to be enforced.

13 Our biggest fear is that we can  
14 envision a scenario where both the DOE and  
15 Medicaid are claiming that the other one is  
16 responsible for payment. Neither one is going to  
17 take responsibility. Money is definitely going to  
18 be saved, but that money is going to be saved at  
19 the expense of the students with special education  
20 needs.

21 So, assuming that the DOE is going  
22 to pursue the Medicaid waivers more aggressively  
23 from families of students with IEPs, what we would  
24 push for is a mechanism that protects the needed  
25 services and that it be instituted immediately.

1  
2 We would ask you, I think, to ask the DOE for an  
3 articulation of a plan that they do in order to do  
4 that.

5           The other piece is that thus far  
6 the DOE hasn't communicated to parents and  
7 educated parents around this issue. As I started  
8 to say earlier to Council Member Vann, any consent  
9 signed by parents at this point is really likely  
10 to be far less than informed consent. Without  
11 some sort of disclaimer about the possible effects  
12 of the waiver, reduced services, for example, for  
13 out of school specialized therapies and counseling  
14 or any mechanism to withdraw the waiver if it  
15 turns out that families are seeing reductions  
16 really concern us. At this point, we're probably  
17 likely to continue to make clear our own concerns  
18 when families do reach out to us.

19           I think that's the bulk of what we  
20 wanted to say. I can, of course, answer any  
21 questions if that raises any.

22           CHAIRPERSON JACKSON: Thank you.  
23 Next please.

24           DOMINICK A. FORTUGNO: Thank you.  
25 I wanted to speak briefly, actually touching off

1  
2 of something that I believe Council Member Cabrera  
3 mentioned a short while ago.

4 CHAIRPERSON JACKSON: Just  
5 introduce yourself.

6 DOMINICK A. FORTUGNO: I'm sorry.  
7 Dominick Fortugno, the director of the School  
8 Psychology Program at Touro College.

9 In reference to something that I  
10 believe it was Councilman Cabrera mentioned a  
11 short while ago, ways in which we can not only  
12 help maximize Medicaid reimbursements but also  
13 increase really the shortage of mental health  
14 services, he mentioned the possibility of bringing  
15 in mental health counselors into the school  
16 system.

17 In actuality, I believe that there  
18 is a simpler solution that already exists.  
19 Licensing the specialist level school psychologist  
20 who are already working in these buildings.  
21 School psychologists function at two levels of  
22 accreditation.

23 Specialist level school  
24 psychologists are certified under the Office of  
25 Teaching Initiatives and they're permitted to work



1  
2 approximately \$100 million in potential Medicaid  
3 reimbursements across New York State. They've  
4 estimated it at \$20 million for here in New York  
5 City alone. Hence, certification restrictions  
6 have resulted in a drastic reduction of potential  
7 revenue.

8                   These changes have exacerbated an  
9 already critical shortage of psychological  
10 services, which we've mentioned here. But one  
11 point that I'd like to focus on a little bit,  
12 during the 2009-2010 academic year alone, 1,200  
13 preschool and school-age evaluations failed to be  
14 completed within the time limits that are set by  
15 state law, 1,200 of them, approximately.  
16 Approximately 300 of them school age and  
17 approximately 900 preschool evaluations were not  
18 completed in time. In large part because they did  
19 not have the people available to complete these  
20 evaluations.

21                   Rather than expanding access to  
22 vital services, our answer over the past several  
23 years has been to cut corners in the name of  
24 fiscal responsibility. The 2003 and 2007  
25 reorganizations failed to increase evaluation

1  
2 compliance rates and, based on a report that was  
3 done by former public advocate Betsy Gotbaum,  
4 resulted in school psychologists enduring  
5 increased workloads and pressure from their  
6 supervisors to reduce evaluation component and  
7 accessibility.

8 More recently, New York Education  
9 Commissioner John King has proposed a series of  
10 mandate relief recommendations that seek to  
11 further retrench psychologists' scope of practice.  
12 These changes are likely to further erode the  
13 quality of our assessments, undermine student  
14 outcomes, and expose our districts to increased  
15 liability.

16 Instead, our goal should be to use  
17 our existing resources more efficiently and more  
18 effectively. Licensing specialist-level school  
19 psychologists will serve several purposes. It'll  
20 restore their capacity to obtain Medicaid  
21 reimbursement which is particularly helpful here.  
22 As Speaker Quinn mentioned at the beginning of the  
23 discussion, where more than two-thirds of our  
24 168,000 special-needs students qualify for this  
25 assistance. Second, it will expand the number of

1  
2 qualified professionals available to provide  
3 services not only within the school system but out  
4 in the community at large. Third, it will reflect  
5 the evolution of school psychology competencies  
6 and establish a clear scope of practice, thereby  
7 ensuring highly specialized training and ongoing  
8 professional competence.

9 I'd just like to note, legislative  
10 efforts to license specialist school psychologists  
11 are already underway. Governor Cuomo's  
12 administration has initiated the discussion  
13 through the Mandate Relief and Medicaid Redesign  
14 Teams and there are two bills currently making  
15 their way through the State Senate and Assembly.  
16 New York Senate Bill S5676 was introduced by  
17 Senator John Flanagan and is currently being  
18 considered by the Senate's Higher Education  
19 Committee. Assembly Bill 233 was introduced by  
20 Assemblyman George Latimer and is currently being  
21 considered by the Assembly's Higher Education  
22 Committee.

23 These measures would offer swift,  
24 direct relief to schools, as well as an expansion  
25 of needed services to families of children with

1  
2 special needs. It uses the professionals who are  
3 already present in the schools. School psychology  
4 specialists must complete 60 credits of graduate  
5 course work and a full 1,200 hour internship.  
6 These right here are the same requirements that  
7 are required for a number of different related  
8 service areas.

9 I hope that we can count on the  
10 Council's support for these measures. Thank you  
11 very much.

12 CHAIRPERSON JACKSON: Well I want  
13 to thank all of you for coming in. So this bill  
14 that you talked about, the Senate bill and the  
15 Assembly bill, your association supports that?

16 DOMINICK A. FORTUGNO: I beg your  
17 pardon?

18 CHAIRPERSON JACKSON: Your  
19 association supports that piece of legislation?

20 DOMINICK A. FORTUGNO: We do. The  
21 New York Association for School Psychologists  
22 supports these bills, yes.

23 CHAIRPERSON JACKSON: But the  
24 bottom line is that it would help you but from  
25 what you gave testimony as to the number of

1  
2 psychologists in Nassau and Suffolk County  
3 compared to about 450,000 students in both county  
4 and the lesser number of psychologists in the New  
5 York City public school system with 1.1 or 1.2  
6 million students, you're basically saying that you  
7 should have at least twice as many psychologists  
8 working with the children of New York City. Am I  
9 right in that little analysis?

10 DOMINICK A. FORTUGNO: Correct.

11 This would allows us to provide better services  
12 and better support to parents. It would allow us  
13 to complete the evaluations in the time that  
14 they're needed. And it would give us more time to  
15 fix some of the issues, in terms of counseling.  
16 There is no reason why a schedule must be so  
17 packed together that you cannot allow five minutes  
18 before and five minutes after your counseling  
19 session to go pick up your students from  
20 throughout the school, as was already pointed out.

21 CHAIRPERSON JACKSON: Sure. Many  
22 of you, if not all of you were sitting through the  
23 entire hearing and you may have heard. So with  
24 respects to that, would you agree that the  
25 Department of Education needs to hire more

1  
2 employees in order to facilitate the documentation  
3 and/or inputting in order to get reimbursement?

4 That basically if they did that, it would fund all  
5 of the employees that they hire? Because it  
6 appears to me, based on the testimony that they  
7 gave, they do not have enough employees, be it  
8 psychologists, be it occupational therapists,  
9 physical therapists, speech therapists and all of  
10 the people that need to do the inputting. They  
11 don't have enough employees to go after full  
12 reimbursement.

13 ELLEN MCHUGH: They may not have  
14 employees to do inputting--

15 CHAIRPERSON JACKSON: [interposing]  
16 Just identify yourself again. Pull the mic up.

17 ELLEN MCHUGH: I'm sorry. Ellen  
18 McHugh.

19 CHAIRPERSON JACKSON: Pull the mic  
20 up please.

21 ELLEN MCHUGH: They may not have  
22 enough employees to do the inputting but their  
23 rates for reimbursement for speech language, OT,  
24 PT folks is not competitive with the same  
25 reimbursement rate, say in a hospital program.

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CHAIRPERSON JACKSON: So you mean  
their rates are too low?

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ELLEN MCHUGH: Well, they're not  
competitive. Let's put it that way.

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CHAIRPERSON JACKSON: Well when you  
say not competitive, that means are they too high  
or are they too low? I read that to be they're  
too low.

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ELLEN MCHUGH: If it were me, I  
would say they're too low.

11

12

CHAIRPERSON JACKSON: Okay. So who  
sets the rate?

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14

ELLEN MCHUGH: The DOE probably  
sets their own rates. No?

15

16

CHAIRPERSON JACKSON: State sets  
the rates?

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ELLEN MCHUGH: The state sets the  
rates? So if the state sets the rates then the  
state can be called in on this.

19

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CHAIRPERSON JACKSON: Okay. Any  
other comments on what I just said as far as they  
need to hire more employees? Anyone else?

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ELLEN MCHUGH: You're talking about  
input? What are they doing with all those people

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that are clickety clacking up and down the halls?

CHAIRPERSON JACKSON: That's a good question.

ELLEN MCHUGH: When you go to co-location meetings, there's got to be 18 people on staff that show up.

CHAIRPERSON JACKSON: Okay.

MAGGIE MOROFF: No, I wouldn't disagree at all. I mean I think it's clear that they are--

CHAIRPERSON JACKSON: [interposing] Just identify yourself again.

MAGGIE MOROFF: Sorry. Maggie Moroff from Advocates for Children.

CHAIRPERSON JACKSON: Go ahead.

MAGGIE MOROFF: It is clear that there are staffing issues and that they are understaffed and that the work that is being requested of school personnel right now around this and around a number of things is extreme. I'm also sympathetic to the fact that we're in a time of budget crisis and, you know, following the logic of the earlier part of this hearing that any influx of money would make a big difference and

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allow them to go to that.

I do think that they're at a bit of a standstill right now. They can't do the work that they need to do without the staff to do it and without allowing more time and more flexibility in the schedules of the staff in order to do it. So they are up against a hard place on this one I think.

DOMINICK A. FORTUGNO: Dominick Fortugno. Again, while I agree staffing is an issue and hiring more people I absolutely agree would help them handle the volume. There are changes that can be made within the structure. This is one example right over here just within our credentialing structure that would allow us to actually apply for more of the reimbursements than we're currently eligible for. They identified five areas where they are simply not seeking reimbursements at this point. We can make simple changes--

CHAIRPERSON JACKSON: [interposing]  
Yeah, but they said that's only worth \$20 million.

DOMINICK A. FORTUGNO: Only here in the city. It could be worth \$100 million across

1  
2 New York State. And \$20 million for a simple  
3 restructuring like that. I mean can we really say  
4 no to that?

5 CHAIRPERSON JACKSON: Mike Mulgrew  
6 testified and I believe all of you heard him. He  
7 said that basically we're talking about what's not  
8 really--the total that we should be entitled to is  
9 worth, you know, \$700-\$800 million. Do you agree  
10 that in totality we're talking about that much  
11 money? Or is it much, much, much less than that,  
12 based on whatever knowledge you have? If you  
13 don't have an opinion, that's okay to. I'd like  
14 to hear.

15 DOMINICK A. FORTUGNO: Without  
16 knowing how they generated their numbers, I  
17 wouldn't want to speculate as to their accuracy.  
18 However, I would want to know whether they amount  
19 that they indicated, was that based on just simply  
20 the amount of services that were provided or was  
21 this the amount of services that were needed.  
22 Because, as we've already seen, 25 percent of  
23 services are simply not being--

24 CHAIRPERSON JACKSON: [interposing]  
25 Being provided.

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DOMINICK A. FORTUGNO: Exactly.

CHAIRPERSON JACKSON: Right.

DOMINICK A. FORTUGNO: There are delays in the evaluation process where students are not being served until months and months into the school year, despite the fact that they're identified for having difficulties very early on. So I believe that we're in a situation where it's a self-fulfilling prophecy. If they had more people to provide the services, you would find that there were more reimbursable services that we could get that federal money for.

CHAIRPERSON JACKSON: Anyone else?

Thank you.

OROMA H. MPI: I'm sorry. I'll just make a point.

CHAIRPERSON JACKSON: Just identify yourself.

OROMA H. MPI: This is Oroma Mpi from Legal Services. There is definitely a shortage. Everyone has sort of seen the statistics out there about the lack of related service providers. It just makes intuitive sense that if you hire more of these providers on staff

1  
2 at the school and these sessions they do are  
3 reimbursable, that would sort of make up for a  
4 good portion of their salaries. So, you know, we  
5 would ask that the DOE be strategic about its  
6 hiring but also realize that it's for the purpose  
7 of bringing in more funding.

8 CHAIRPERSON JACKSON: Well I want  
9 to thank the panel for coming in. Please continue  
10 to advocate on behalf of the students of New York  
11 City in need. Thank you.

12 DOMINICK A. FORTUGNO: Thank you.

13 OROMA H. MPI: Thank you.

14 ELLEN MCHUGH: Thank you.

15 MAGGIE MOROFF: Thank you.

16 CHAIRPERSON JACKSON: Our last  
17 witness is Jaye Bea Smalley. There's no one else  
18 that wants to testify is there? No? No one else  
19 wants to testify? Okay, thank you. Last but not  
20 least.

21 [Pause]

22 JAYE BEA SMALLEY: Hi. My name is  
23 Jaye Bea Smalley. I'm a parent of two children  
24 with special needs and I'm the co-chair of the  
25 Citywide Council on Special Education.

1  
2 I'm going to paraphrase a lot of  
3 this, but you will have copies of it, because I  
4 know you've heard a lot of testimony.

5 We are a statutory council. We're  
6 nine elected parents of students with disabilities  
7 and two public advocate appointees. So we really  
8 represent parents of students with IEPs. So we're  
9 really looking at this from the standpoint of how  
10 is this going to affect the child and the family.

11 We applaud your oversight of the  
12 DOE and we want them to be leveraging all the  
13 opportunities to recuperate reimbursement from all  
14 federal programs possible, but we have serious  
15 concerns related to the administration of the  
16 Medicaid in the schools program.

17 Those concerns are related to  
18 unresolved issues over the rights of parents,  
19 coordination with the local Department of Health  
20 and related health agencies and the general  
21 infrastructure.

22 So in regard to the rights of  
23 parents, there is a federal regulation right now  
24 that has not been--they're waiting for the final  
25 rule to be released--that changes the way that

1  
2 parents release for billing of Medicaid. So the  
3 way it works right now is every time your services  
4 change, you have to sign and give them permission  
5 to bill Medicaid. What they're looking to do, and  
6 I must say I know it has a lot of intuitive appeal  
7 for policymakers when you can relieve  
8 administrative burden. All these regulations that  
9 are coming out, they're all about how can we make  
10 things more streamlined and how can we relieve  
11 administrative burden. But at the end of all of  
12 relieving that administrative burden there is a  
13 child and a family.

14 In this case, if you are to just  
15 get this one-shot deal and have parents just sign  
16 and say you can just access my public benefits, it  
17 wasn't even specific to public benefits. It  
18 didn't even stipulate whether if it was public and  
19 private. Some people have private benefits. So  
20 there are some problems with that. I'm just going  
21 to point out to you, for example, in this city  
22 there are many children that are foster children.  
23 They do not have consistent parental or  
24 educational guardians. So what's going to happen  
25 when you have changing, all these different people

1  
2 coming in for those students? What considerations  
3 are in place for students with Medicaid waivers?

4           There were 400 comments that were  
5 received. Essentially all the schools and all the  
6 agencies wanted relief of burden. I have for you  
7 the comments from New York State Education  
8 Department, the comments from the Department of  
9 Education. But then when you look at comments  
10 from some of the most respectable groups that  
11 represent civil rights concerns, children and  
12 individuals with disabilities, they all were  
13 really concerned about the regulation and how it  
14 weakens parents' rights. You will have copies.  
15 Some of the responses that I sent you were from  
16 Council on Parental Attorneys and Autism National  
17 Committee.

18           The next concern is the  
19 coordination with the local department of health  
20 and some of the other health care agencies. So  
21 there are a lot of balls in the air right now with  
22 health care reform, specifically in New York  
23 State. In response to the *New York Times* article  
24 which obviously brought a lot of this to light,  
25 the woman who is the director of the Medicaid in

1  
2 the Schools Program, the national program, Ms.  
3 Reagan said that it's a hassle but once you've got  
4 the infrastructure and staff in place, the costs  
5 are almost always worth the benefit.

6           It's really unclear what that  
7 infrastructure looks like, beyond a culture of  
8 compliance. When you look at the federal Medicaid  
9 in the Schools program and when you look at what  
10 the DOE has, the DOE at this point, you go on  
11 their website and you go under school health,  
12 there's nothing. But if you search Medicaid in  
13 the Schools, you get a copy of their compliance  
14 brochure.

15           So we understand that compliance is  
16 really not something to be taken lightly when it  
17 comes to Medicaid and Medicare. However, we don't  
18 consider that appropriate infrastructure. That's  
19 not inclusive of how are parents going to be able  
20 to resolve issues that they may have. The  
21 department should also be aware of how they can--  
22 they should have people in place for  
23 communication, for problems or questions that may  
24 arise. Currently, the only departments that are  
25 liaising on this Committee for the Medicaid in the

1  
2 Schools at the DOE is the Division of Financial  
3 Operations, the Office of Legal Services, the  
4 Office of the Auditor General, the Division of  
5 Human Resources, the Division of Capital Budgeting  
6 and Financial Planning, the Division of Students  
7 with Disabilities and English Language Learners  
8 and the Division of School Support Services. So  
9 there is nobody on there from other agencies.

10 Just to give you an example, two  
11 weeks ago, Medicaid sent out a notice that now  
12 they're going to require prior authorization for  
13 PT and OT and speech and language services. So  
14 how is it going to affect students as they are  
15 enrolling in these plans when they're getting all  
16 of these services at school? Has anybody had a  
17 conversation to say okay, how are we going to  
18 ensure that when we want to get these services  
19 that are not related to just instruction only that  
20 they can get them outside. There is no  
21 conversation going on like this at all.

22 It's critical during a time like  
23 this with all of these reforms that we don't let  
24 our children slip through the cracks. So the CDC  
25 recently issued, "Parental Engagement: Strategies

1  
2 for Involving Parents in School Health." I really  
3 feel that school health is beyond just reducing  
4 obesity and healthy lifestyle. We have a very  
5 progressive school health program in the city.

6 This particular report, they have  
7 some very good suggestions that the DOE could  
8 important. Creating opportunities for parents and  
9 child with special health care needs to meet and  
10 discuss and coordinate solutions. So if parents  
11 were involved, they could cite specific problems  
12 that they're having, related to maybe not being  
13 able to get health care benefits.

14 Engaging parents and schools at the  
15 district level. Enlisting parent so students with  
16 special health care needs to share their expertise  
17 and experience in staff meetings or with  
18 professional development. Creating policies and  
19 institutionalizing parent representation on parent  
20 decision making groups such as school health  
21 councils. Giving parents who have children with  
22 special health care needs the opportunity to help  
23 develop and shape professional development events  
24 specific to chronic health care needs.

25 So these are recommendations that

1  
2 would help foster trust and collaboration. If you  
3 have trust and collaboration, parents are going to  
4 be more likely to cooperate with having services  
5 billed if they have an idea of who's going to be  
6 there to resolve problems if they should arise, if  
7 they have an idea of how these benefits are being  
8 coordinated. It would be a good idea to consider  
9 appointing an ombudsman to liaise between families  
10 and the DOE.

11                   These are some of our concerns. I  
12 appreciate the opportunity to present some  
13 testimony today. The CCSE is always available to  
14 collaborate with the City Council and all  
15 stakeholders concerning policies related to  
16 provision of students with disabilities.

17                   CHAIRPERSON RECCHIA: All right,  
18 thank you very much for your recommendations. You  
19 gave a lot of good ideas and things to look for.  
20 We want to work with you. So if you need our  
21 help, call Rob Jackson or my office. We're here  
22 to work with you to help you in any way possible.

23                   JAYE BEA SMALLEY: I appreciate it.

24                   CHAIRPERSON RECCHIA: I think this  
25 was an excellent hearing. We learned a lot. This

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is just the beginning.

Starting on Monday, we have all the budget hearings for the whole month of March. The head of the Office of Management and Budget will be testifying on Monday at our hearing in the City Council Chamber at 10:00, Mark Page. I'm sure Councilman Jackson and I will be asking him a lot of questions dealing with this issue.

It's a work in progress. We hear it. We all want the best for our children. We all want to work with the DOE so we can turn this around and make it all work.

I appreciate everyone coming here today and testifying. We just have to tell you thank you for taking time out of your busy schedules. We do appreciate it and your information is worthwhile. Because if you don't advocate, if you don't speak out and let us know what's going on, we can never make the system better and help those children who really need the help. So, Councilman Jackson, do you want to say a word or two? All right, meeting is adjourned.

C E R T I F I C A T E

I, Donna Hintze 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 *Donna Hintze*

Date March 26, 2012