

Discussion Points

1. Pursuant to the provisions of N.J.S.A.18A:39-1, school districts are required to provide transportation services to their public school students if the students live remote from school, more than two miles for students in grades kindergarten through eight, and more than 2.5 miles for high school students. A school district that provides such transportation to public school students is also required to provide transportation to nonpublic school students who live remote from, but no more than 20 miles, in general, from the school that the students attend. If the school district is not able to provide the transportation services to nonpublic school students at a per pupil cost within an established limit - \$884 per pupil in the recommended FY 2018 budget – then the district pays that amount to the parent as aid-in-lieu-of transportation. The State reimburses school districts for nonpublic transportation costs that exceed \$710.

P.L.2016, c.22 (C.18A:39-1d) established a three-year pilot program in the Lakewood School District. Under the program, a consortium of nonpublic schools that enroll students who reside in Lakewood and receive transportation services required by law would assume the responsibility of providing transportation services for these students. In turn, the consortium would receive a total of \$884 per pupil, with the first \$710 being provided by the Lakewood School District, and the balance paid for by the State. If funds remain available after providing statutorily required transportation, the consortium would have the option of transporting nonpublic school students who do not live remote from school. The law also requires that: 1) a five-person oversight committee be appointed to oversee the program’s implementation; and 2) the State Board of Education promulgate regulations that, at a minimum, establish the process and schedule for the disbursement of funds to the consortium.

- **Question:** In the current school year, how many, and what percent of, nonpublic school students who were enrolled in a school that participates in the consortium and lives remote from school were actually transported? What is the number and percent of those students who received aid-in-lieu-of transportation? How many students received transportation services despite not living remote from school? How do these figures compare to the most recent year during which the district provided the transportation services?

Answer:

	2015-16 Students	2015-16 Percentage	2016-17 Students	2016-17 Percentage
Nonpublic Transported	15,919	64.38%	19,008	67.62%
Nonpublic Aid In Lieu	1,050	4.25%	673*	2.39%
Nonpublic Courtesy	7,756	31.37%	8,429	29.99%
Total Nonpublic	24,725		28,110	

*** 2,097 students received AIL earlier in the year and are now transported. These students are included in the NP Transported total (19,008).**

- **Question:** In the current school year, what is the anticipated amount of State funding that will support payments in excess of \$710 per pupil to the consortium? To the extent that P.L.2016, c.22 (C.18A:39-1d) was enacted after the FY 2017 Appropriations Act and did not include an appropriation, does the department have sufficient funding in the current year to support the pilot program, or does the

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department anticipate the need for a supplemental appropriation or the transfer of other funding?

Answer: Since P.L.2016, c.22 was enacted after final passage of the FY2017 Appropriations Act, the FY 2017 Budget does not include the additional money as may be required. A supplemental appropriation or transfer of funds would be necessary.

- **Question:** Please identify the members appointed to the oversight committee and briefly describe the individual's qualifications to serve on the committee.

Answer: The statute requires an oversight committee of five individuals including one member appointed by the state monitor, and four members appointed by the Commissioner of Education (one of whom shall represent a nonpublic school). The committee members are: Rabbi Meir Kastan, who represents the nonpublic schools; Dr. Michael Rush, a member of Lakewood UNITE; Dr. Alfred Longo of the Senior Action Group; Ms. Kimberlee Shaw, President of the Lakewood Teacher's Association; and Mr. Barry Iann, President of the Lakewood Board of Education.

- **Question:** What is the status of the regulations that the State Board of Education was required to promulgate under P.L.2016, c.22 (C.18A:39-1d)? In the absence of regulations, how has the process and schedule for the disbursement of funds been addressed?

Answer: The Department is currently in the process of developing regulations for P.L.2016, c.22.

The State Monitor worked with the consortium to establish the current disbursement schedule. Each month, the consortium sends the district a voucher for payment and the previous month's financials based on the consortium student count as of October 14, 2016.

2. The FY 2017 Appropriations Act included \$7.5 million for Nonpublic Security Aid and a corresponding language provision stipulating that the appropriation would be allotted at a rate of \$50 per pupil enrolled in nonpublic schools, and that districts would use the funding to provide security services, equipment, or technology to nonpublic schools within the district. On September 6, 2016, the "Secure Schools for All Children Act," P.L.2016, c.49 (C.18A:58-37.8 et seq.), was signed into law. That law provided \$75 per nonpublic school student for an identical purpose. The per pupil amount is to be adjusted annually for increases in the consumer price index. The recommended FY 2018 budget does not include an appropriation for this purpose.

- **Question:** Given that the law was signed almost six months before the Governor's budget message, what is the rationale for not including a recommended appropriation in the budget proposal?

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Answer: The FY2018 budget proposal for nonpublic school programs is flat compared with the prior year proposal due to budget constraints. The law establishes a program and maximum support level for security services and equipment for nonpublic schools to be provided by boards of education. As with other nonpublic aid programs, districts are not required to make expenditures in excess of the amount of State aid received.

3. The FY 2018 recommended appropriation for preschool education aid is \$655.5 million. However, the total projected amount to be paid to school districts is approximately \$3 million less. In a report released in September 2016, the State Auditor noted that preschool education aid is calculated based on districts' projected enrollment, and there is no subsequent adjustment once actual enrollment figures are available.

- **Question:** To the extent that the appropriation needed to fully fund preschool education aid is known, why does the recommended budget include an appropriation that exceeds the amount of aid that will be paid to school districts?

Answer: The FY 2018 budget maintains current funding levels for preschool aid. The Department provides estimates of all state aid figures to each district and maintaining the same appropriation accommodates these projections.

4. Under the provisions of the "Teacher Effectiveness and Accountability for the Children of New Jersey (TEACHNJ) Act," P.L.2012, c.26 (C.18A:6-117 et al.), the State pays the cost of arbitrators appointed to hear tenure cases. The department's FY 2017 appropriation to pay for these cases increased from \$500,000 to \$1.5 million. In response to Discussion Point #9 in the Office of Legislative Services FY 2017 department budget analysis, the department indicated that 68 such cases had been filed so far in that year, and that it anticipated, "...a substantial increase in the number of tenure cases for FY17 – up to approximately 200 – a large proportion of these are expected to be inefficiency charges under the second year of implementation under TEACHNJ."

- **Question:** To date, how many tenure cases have been heard by arbitrators under TEACHNJ since the beginning of FY 2017, and how much has the State paid to arbitrators in these cases? How many additional cases does the department anticipate will be heard through the remainder of the current fiscal year? If the department does not anticipate expending the entire amount for this purpose, please estimate the amount that will lapse or, alternatively, detail the other purposes for which the appropriation will be used.

Answer: Since July 1, 2016 there have been 35 new tenure cases filed and the State has expended \$231,116 for 26 cases heard by arbitrators. We anticipate additional cases will be added by the end of the year. The Department does not anticipate using the funding for other purposes.

5. The State Board of Education promulgated regulations, effective July 13, 2016, requiring that entities that educate public school students, including school districts, charter

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schools, and private schools for students with disabilities, test all drinking water outlets in educational facilities no later than July 13, 2017. The regulations provided that entities could apply for a reimbursement for expenditures incurred to comply with the testing requirement. While nonpublic schools were not required to conduct these tests, a nonpublic school that opted to do so could also apply for a reimbursement, which would be contingent on the availability of funds after the reimbursements for required testing has been paid. The FY 2017 Appropriations Act included a \$10 million appropriation for this reimbursement, none of which has been expended to date. A language provision included in the recommended FY 2018 budget would allow any unexpended funds to be carried forward and used for the same purpose.

- **Question:** For the entities that were required to perform lead testing in drinking water, what is the total number and amount of reimbursements that have been requested so far? To the extent that this amount exceeds the amount appropriated, how will the available funds be disbursed? Is it the department's intent to begin providing the reimbursements after the July 13 deadline?

Answer:

To date, we have received 47 eligible reimbursement requests totaling \$126,591.05. The deadline to submit reimbursements is July 13th. At that time we'll have a better sense of how funding will be disbursed to eligible districts.

6. In his budget message, Governor Christie implored the Legislature to cooperate with him to develop a new school funding formula within 100 days. Specifically, he stated, "...school funding fairness cannot be imposed by a Governor acting alone. What is required are willing partners, both in the Legislature and the courts." He further stated, "[b]ut please be assured that if we do not do this in the next 100 days together, each branch will then be left to its own authority and its own devices to fix the problem on its own. I want to act with you. But, if forced, I will act alone. But it will be fixed before I leave this town."

- **Question:** Please outline the constitutional authority of the Executive Branch to unilaterally modify statutes related to school funding.

Questions regarding the Governor's speech should be directed to the Governor's Office.

- **Question:** To the extent that "school funding fairness cannot be imposed by a Governor acting alone," how is it possible to "fix the problem" through the unilateral actions of the Executive Branch?

Questions regarding the Governor's speech should be directed to the Governor's Office.

7. P.L.2015, c.143 established a category of State school aid, commercial valuation stabilization aid, for school districts situated in a municipality in which commercial property accounts for a significant share of the total assessed property value and the assessed value of the commercial property declined significantly. The Atlantic City School District is the only district that satisfies the law's criteria. The FY 2017 Appropriations Act included \$32 million for this purpose, which accounts for more than one-fifth of that school district's total projected

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general fund revenue for the school year. To date, none of this funding has been disbursed to the district. The FY 2018 budget proposal includes an identical appropriation.

- **Question:** Given that this State aid category accounts for a significant share of the Atlantic City School District’s projected revenue, why has none of the funding been disbursed to the district? Additionally, please summarize the analysis undertaken to determine that the same amount of funding will be sufficient in the 2017-2018 school year.

Answer: As articulated in the statute, commercial valuation stabilization aid (CVSA) was provided following a needs assessment. The Commissioner, in conjunction with the district, the state monitor and the Commission of Community Affairs, finalized a needs assessment and began providing CVSA to Atlantic City School District at the end of March. The CVSA will be disbursed to the school district on a schedule through the end of the 2016-2017 school year. The needs assessment for the 2016-2017 school year, as well as ongoing data and analysis received directly from the school district and the state monitor, will inform the provision of the amount of funding for the 2017-2018 school year.

8. The federal budget blueprint for federal fiscal year 2017-2018 recommends eliminating two formula-driven funding sources that are distributed to school districts. First, it proposes eliminating federal impact aid for federally-owned property, which is allotted to school districts in which a significant portion of properties are exempt from taxation due to federal ownership. Second, the plan recommends eliminating the “Supporting Effective Instruction State Grants,” commonly referred to as Title II – Part A of the Elementary and Secondary Education Act. The proposed FY 2018 State budget anticipates receiving approximately \$50 million in funding from this program, of which most would be allocated as subgrants to school districts.

- **Question:** For the most recent school year for which data are available, please identify the school districts that received federal impact aid for federally-owned property, the total amount that each district received, and that amount as a percent of the district’s total general fund revenue.

Answer: According to the US Department of Education, 9 school districts received federal impact aid in FY16. As this aid is provided directly to school districts from the federal government, the Department does not have the level of detail to determine which type of Impact Aid is being provided.

<u>Districts that Received Federal Impact Aid (Sec. 7002) in FY2016</u>					
District	Co	Dist	General Fund Revenue FY2016	FY2016 Federal Property Allocation	Federal Allocation as % of FY2016 General Fund Revenue
BLAIRSTOWN TWP	41	400	9,621,770	37,802	0.39
COLTS NECK TWP	25	945	24,924,190	623,067	2.50
KITTATINNY REGIONAL	37	2465	22,964,038	360,661	1.57

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LAKEHURST BORO	29	2500	8,645,303	61,662	0.71
MONTAGUE TWP	37	3300	9,357,881	165,599	1.77
NEW HANOVER TWP	5	3540	5,213,535	664,690	12.75
PLUMSTED TWP	29	4190	26,273,634	946,328	3.60
ROCKAWAY TWP	27	4490	51,988,631	300,874	0.58
SANDYSTON-WALPACK TWP	37	4650	3,135,890	352,957	11.26
State Total				3,513,640	

- **Question:** How many school districts received funding under the Supporting Effective Instruction State Grants program? Please summarize the types of programs, personnel, and services that have been supported with this funding.

Answer: 631 LEAs are eligible for \$51,484,513 of Title IIA funds for the 2016-2017 school year (July 1, 2016-June 30, 2017). The current Elementary and Secondary Education Act (ESEA) grants are still operational so the most current cumulative spending data for the school districts reported below is from the 2015-2016 school year. New Jersey was awarded \$52,363,316 of Title IIA funds for the 2015-16 school year (July 1, 2015-June 30, 2016).

A total of \$49,702,072 (including carryover from previous year) was spent by school districts in FY2016. The largest three categories were for teachers' salaries, non-instructional salaries and consultants to provide professional development as outlined in the table below.

Category	Amount	Description
Personnel: Salaries	\$10,574,344 + benefits	teachers to reduce class size, coaches to work with teachers and principals to support instruction
Personnel: Salaries	\$5,106,080 + benefits	non-instructional salary positions such as curriculum coaches for teachers
Professional Technical Services	\$13,837,677	consultants to provide professional development

9. P.L.2015, c.266, "Abigail's Law" (C.39:3B-26), requires that school buses manufactured after July 17, 2016 be equipped with sensors to detect the presence of a person or object in the front or back of the bus. The law requires that the design and installation of the sensors conform to regulations promulgated by the State Board of Education, in consultation with the Chief Administrator of the Motor Vehicle Commission. While regulations have been proposed, with a public comment period that ended December 16, 2016, the State board has not taken any subsequent action on these regulations. In discussing the cause of the delay, one representative from the department was quoted as stating, "You're talking from Cape May to Sussex County, looking at all the different aspects of different districts, how they use those buses either through their own district buses or through the companies."

- **Question:** Please explain how factors related to geography or the entity that owns a school bus would impact the specifications associated with the design and

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installation of school bus sensors. To the extent that these factors are relevant, how are they addressed in the regulations that have been proposed?

Answer: To the extent that transportation needs vary by population density and student need, the types of vehicles used to transport students also vary. The proposed regulations are being revised to address these differences.

- **Question:** When does the department anticipate that the regulations will be finalized? In the interim, how are school bus manufacturers complying with the law?

Answer: Until regulations are adopted, school districts are expected to comply with the statutory requirement to install sensors on buses manufactured after July 17, 2016 that, at a minimum, meet the basic requirements of the statute. The Department of Education issued guidance advising school districts of their responsibility under the new law in a memo dated May 3, 2016. However, the Motor Vehicle Commission (MVC) is responsible for monitoring compliance with statutes governing vehicle standards. The MVC may be able to provide more detail regarding their methods for ensuring that new buses meet current requirements.

10. P.L.2015, c.219 (C.18A:46-2.4 et seq.) established the Office of the Special Education Ombudsman in the Department of Education. The office is to provide information and support to parents, students, and educators regarding special education rights and services. In response to Discussion Point #12 in the Office of Legislative Services analysis of the FY 2017 department budget recommendations, the department described its plan for creating this office and noted that the estimated annual cost would be between \$135,000 and \$150,000.

- **Question:** Please confirm that this office has been established and is currently fully staffed. If the office has not been established or is not fully staffed, please explain the barriers that have prevented the office's establishment and the steps that the department is taking to resolve these issues.

Answer: It is anticipated that the ombudsman will be in place and begin work during the 2017-2018 school year.

11. In response to Discussion Point # 6 in the Office of Legislative Services' analysis of the department's recommended FY 2017 budget, the department described, but did not provide results from, analyses that it conducts to assess the impact of the Regional Achievement Centers (RACs), which were created to intervene in the State's lowest performing schools. The analyses described in the response included: 1) an analysis of schools' progress towards meeting regulatory requirements to determine if they should be removed from the State's school improvement list; 2) analysis of trend data to determine changes in student attendance rates and suspension rates; 3) reviewing stakeholder data to assess the value of the services provided by the RACs; and 4) reviewing school improvement plan data to assess the fidelity with which schools are implementing their school improvement plans. The response also noted that with the adoption of the federal Every Student Succeeds Act, the department would have greater flexibility in implementing interventions to improve student outcomes.

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- **Question:** Please summarize the results of the analyses that the department has conducted to assess the performance of the RACs. To the extent possible, discuss variation that has been observed across different RACs.

Answer: During the 2016-17 school year, the theory of action embraced by the Regional Achievement Centers (RACs) was modified since the ESEA Waiver expired and there was new flexibility under the Every Student Succeeds Act (ESSA). RAC staff were deployed according to planned support for Priority and Focus schools. Support plans were based on the level of support and intervention needed according to data reviewed and input from RAC teams.

RAC performance is reviewed regularly using a variety of measures, including the number of schools meeting exit criteria. In addition to the 12% of Priority and Focus schools exited in 2015, the Department is expecting to exit an additional 16% of the remaining schools due to the achievement of goals in their school improvement plans and/or meeting other exit criteria.

Additionally, a series of focus groups were conducted with principals and superintendents from Priority and Focus schools to evaluate the work of the RACs. Principals highlighted the value of leadership coaching for school administrators, coaching on instructional strategies and the need to align school and district level efforts.

The Department has not conducted a comparison across RACs since their number of schools, configurations and identified needs vary.

- **Question:** To the extent that the State's draft plan for the Every Student Succeeds Act (ESSA) does not mention the RACs, except in response to comments received by stakeholders, please describe the department's vision for the RACs under the ESSA.

Answer: Under ESSA, the Department is aligning supports for educators, schools and students across divisions within the Department. Three levels of support will be offered. Level one is general information and resources for all schools and districts in the state. Level two includes a more specific level of support for districts identified as needing assistance based on a New Jersey Quality Single Accountability Continuum (NJ QSAC) review or districts with school(s) identified for targeted support and improvement due to a low performing subgroup(s) of students.

Level 3 supports will be provided to districts that have schools identified as in need of comprehensive support and improvement and/or have a significant number of schools (three or more) in need of targeted support and improvement. These districts also might have district improvement plans resulting from an NJ QSAC review. The RAC system will be redesigned into comprehensive support networks. These networks will have fewer, but more targeted, staff who will work more closely with the county offices and other DOE staff with expertise in the needs of specific areas or with subgroups of students.

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The Department’s approach to support will be focused on coaching and building the capacity of district and school leaders and coaches and to provide tools for districts to assess their own needs and develop their own plans to improve performance. Additionally the redesigned system will offer the right level and type of assistance to districts based on need rather than simply on NJQSAC or ESSA accountability designation.

- **Question:** What are the current year and projected FY 2018 expenditures from State, federal, and other sources, respectively, for operating the RACs?

Answer:

Funding Source	Current Budget (FY17)
Federal	\$6,800,000
State	\$2,884,000

A final budget is not available for FY 18.

12. Among its total capital assets, the State has considerable land holdings, valued by the FY 2016 Comprehensive Annual Financial Report at about \$5.22 billion (Land and Easements, pg. 26). Land and easements may be held for future use, restricted as to future uses, or not needed for public purposes and available for sale, lease or other disposition. Knowledge about the extent, location, condition and intended use of these properties and property rights does not appear to be readily available. There could be potentially beneficial uses of some properties, other than those intended by the state agency in control of the properties, depending on the size, location and condition of those properties.

- **Question:** Please list each property under ownership or control of the department comprising unimproved or vacant land 1 acre or more in size, excluding land comprising all or part of a State park, recreation or wildlife management area, identifying each property by county and municipal location, street address, tax map block and lot number and, if available, Global Positioning System coordinates. Please provide the size of the property, its current use, intended future use within the next five years, and any known or suspected environmental contamination that would impede its future use. Please also describe any deed restrictions affecting current and future use. What are the department’s policies and procedures for determining future uses of its land holdings that further the department’s mission, and for allowing beneficial uses of its land in ways that are outside the department’s traditional mission?

Answer: If a DOE owned property becomes vacant an assessment is done to determine if the property can be used by the agency for other DOE purposes. If the property is no longer necessary to the Department in meeting its mission, the Department of the Treasury is notified. Current law establishes the procedure for its disposition.

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13. The Director of the Division of Budget and Accounting in the Department of the Treasury sent a notification to the Joint Budget Oversight Committee that it will make a supplemental appropriation of \$3.3 million to the department's Emergency Fund account pursuant to language included in the FY 2017 Appropriations Act. According to that language provision, the appropriation is to be used to fund approved applications following a needs assessment conducted by the department. The notification stated that the funding is for the Educational Information and Resource Center (EIRC), which has stated that it will cease operations.

- **Question:** Please provide a copy of the application submitted by the EIRC and the department's needs assessment. Is the supplemental appropriation intended to allow the EIRC to continue to operate or to resolve any deficit as it ends its operations? If the answer is the former, does the department anticipate the need to continue to provide similar amounts of funding to the EIRC in future fiscal years?

Answer: The supplemental appropriation will help transition operations and ensure the continuation of important services without interruption, such as internet service to school districts (essential for PARCC testing, which is underway), and the Learning Resource Center for the southern region of the state. The EIRC's application for emergent funding is attached.

An ongoing needs assessment by a state budget manager in the EIRC is being made in coordination with the Department. Further information is included within the attached needs assessment.

Fiscal Year 2017 Emergency Aid Needs Assessment for the Educational Information and Resources Center (EIRC)

Pursuant to the FY2017 Appropriations Act, L. 2016, c. 10, § 34, subject to the approval of the Director of the Division of Budget and Accounting, notwithstanding any law or regulation to the contrary, Emergency Aid may be provided to a district following a district needs assessment conducted by the Department of Education. This document is a summary of the needs assessment of the EIRC conducted by the Department to determine the need for provision of Emergency Aid to the EIRC.

History and Background of the EIRC

The EIRC is a statutorily created (18A:6-95.1) local education agency (LEA) established,

“to provide, upon request, support and assistance to teachers, administrators, parent and community groups, schools and colleges, the Department of Education, and other public agencies, through the delivery of materials, techniques, and expertise to improve school and community programs and services.”

The EIRC is a unique entity in that it is designated as an LEA despite not directly enrolling any students. Although there are statutory provisions for direct state appropriations (18A:6-95.3), the EIRC has not received state funding from the legislature since 2010. The enacting statute included a favorable transfer of asset requirement for the EIRC which helped it assume operation of the Department of Education’s Learning Resource Center (LRC) for the southern part of the state (18A:6-95.4).

According to the EIRC, the organization currently provides some form of services to approximately 80% of the State’s school districts. In addition, services are provided to county and local governments, as well as four State agencies. The EIRC provides the internet and phone connection for the 911 emergency service of Gloucester County. In addition, it provides internet service, cloud storage, and IT help desk service for 24 school districts – the loss of which would severely impact each district’s ability to implement the upcoming PARCC testing, which begins on March 27, 2017. The 911 emergency service for Gloucester County is of note, but the EIRC also is responsible for various levels of services or staffing for the Department of Education, the Department of Human Services, the Department of Children and Families, and the Department of Agriculture. Specifically, for the Department of Education, the EIRC has an agreement to run the Learning Resource Center – South located in Camden County College, and currently provides one agency contracted employee. In addition the EIRC provides staffing, funded through federal programs, for approximately 14 current DHS and DCF employees. In short, public agencies all across the state rely on the EIRC.

Emergency Conditions Existing at the EIRC Necessitating Emergency Aid

On August 1, 2017, a new Executive Director was named to lead the EIRC, followed one month later by a new Business Administrator. While a new leadership team was put in place, the Board, consisting of twenty-one members, has remained intact. The new leadership team quickly became aware of inconsistent and improper fiscal management of the organization. The EIRC had been operating for several years with a structural deficit that was funded by ongoing lines of credit, despite a statutory prohibition on such loans. The EIRC was using these loans to cover current expenses in order to continue providing services at a net loss. In an effort to salvage the organization, in January the Board instituted layoffs of about 20 employees among other cost-saving measures. Despite correcting for this prior mismanagement, the EIRC is projecting a deficit of about \$3.3 million for the current fiscal year.

At the EIRC's board of directors meeting on March 8, 2017, the board reviewed the organization's prior year audit and an assessment of the current fiscal situation. The board voted to begin winding down operations, with most expected to cease by March 31st and some others to conclude in April. Currently the EIRC employs 44 grant-funded staff, and after the January layoffs 42 employees remain directly employed by the EIRC. The essential nature of some of the services provided by the EIRC, most notably the internet service to school districts and internet and 911 services for some municipalities and Gloucester County, combined with the limited time to transition these services elsewhere, requires a gradual, rather than sudden, wind-down.

Conclusion

In order to prevent a disruption to essential services provided by the EIRC, we recommend that funding through Emergency Aid is provided to the EIRC by March 31, 2017, a state monitor or budget manager is appointed to oversee fiscal operations, and to begin work stabilizing the EIRC's operation. The total FY2017 need for the EIRC to maintain operations through the end of the fiscal year is estimated to be \$3,323,817.

The Department recommends that Emergency Aid be provided to help transition operations and ensure that all services continue without interruption. Therefore, based on the needs assessment described herein, the Department of Education has determined that emergency conditions existing in the EIRC, in particular the structural deficit and the essential services threatened by an immediate shutdown of the LEA, warrant the provision of \$1,118,600 in Emergency Aid by March 31, 2017. Current estimates show that the total funding needed to maintain critical operations may rise to a total of \$3,323,817 to complete the fiscal year, but additional disbursements to the EIRC will be made after ongoing assessments are completed by the state monitor or budget manager in coordination with the Department. We recommend that any further allocations of Emergency Aid during FY2017 are made only after such determinations are made and the total aid does not exceed \$3,323,817.



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March 29, 2017

File No. 17064-0001

Via Hand-Delivery

Dr. Lovell Pugh-Bassett
Interim Executive County Superintendent
Camden County Office of Education
420 North Woodbury-Turnersville Road
Blackwood, NJ 08012

Re: Request for Emergency Aid

Dear Dr. Pugh-Bassett,

As special counsel for the Education Information and Resource Center (“EIRC”), we are hereby respectfully requesting consideration for Emergency Aid, pursuant to N.J.A.C. 6A:23A-19.1.

By way of background, EIRC was established by statute. N.J.S.A. 18A:6-95.1. It was established as a local educational agency “to provide, upon request, support and assistance” to public educational agencies “though the delivery of materials, techniques, and expertise to improve school community programs and services.” Id. To this end, EIRC currently provides services to approximately 80% of the state’s school districts. Its programs and services reach school districts, educators, and students in all 21 counties.

All services provided by EIRC are centered on the NJ Core Curriculum Content Standards that influence educators’ learning in an effort to affect student achievement. EIRC helps districts create a culture of learning that promotes continued progress in classroom instruction and leadership. Additionally, EIRC has worked extensively to improve educational outcomes for students with disabilities, ages 3-21, by providing professional development activities, technical assistance, and statewide dissemination of educational materials, practices, and techniques for educators, parents, administrators, teacher aides, child study teams, and administrators in order to influence the design and implementation of instructional programs

Moreover, EIRC administers and supports more than fifteen publicly and privately funded grants, such as the Learning Resource Center – South (LCR) which provides resources,

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supplies, and training in the realm of special education; the NJ Child Assault Prevention (NJ CAP) program, which provides training to prevent child abuse, and various other NJDCF funded programs.

EIRC was established by P.L. 1983, c. 186 (“the enabling act”). P.L. 1983, c. 186. Specifically, the enabling act established “a local education agency to serve as an educational information and resource center[.]” N.J.S.A. 18A:6-95.1. P.L. 1983, c. 186 amended P.L. 1978, c. 58. See A.B. 3065 (1983). The enabling act revised P.L. 1978, c. 58, which established the predecessors to EIRC. EIRC’s predecessors were “four regional-intermediate school districts.” P.L. 1978, c. 58. In essence, the enabling act consolidated the four regional-intermediate school districts into one entity – EIRC.

Indeed, EIRC is essentially a renamed version of the southern regional-intermediate school district established by P.L. 1978, c.58. The enabling act provided that the assets of the southern regional-intermediate school district would be transferred to EIRC and that the board of directors of that entity would become the board of EIRC. P.L. 1978, c.58; P.L. 1983, c.186. In most respects, the four regional-intermediate school districts operated in an identical manner to EIRC. They were both controlled by a board of directors, made up of twenty-one members from different categories of educational professionals. P.L. 1978, c.186; P.L. 1983, c. 186. They both had similar powers granted under their enabling statutes. P.L. 1978, c. 186; P.L. 1983, c. 186. Additionally, both of the entities existed to provide support and assistance to school districts. See P.L. 1978, c.58; P.L. 1983, c. 186. Because EIRC is the successor to the southern regional-intermediate school district, EIRC is, for all intents and purposes, a school district.

In that vein, EIRC operates in the same manner as a school district. It follows the Open Public Records Act and the Open Public Meetings Act. Significantly, it can only enter contracts into contracts that comply with the Public School Contracts Law, N.J.S.A. 18A:18A-1 et seq. N.J.S.A. 18A:6-100(j). Similarly, all of its expenditures and accounting procedures must comply with the laws governing local school districts. N.J.S.A. 18A:6-100(g). Finally, all EIRC employees who are certificated professional employees are eligible for membership in the Teachers’ Pension and Annuity Fund. N.J.S.A. 18A:6-102.

Because EIRC is a school district, it is entitled to request emergency aid when its financial circumstances are such that it can no longer meet its financial obligations to operate as a going concern. The dire financial situation of EIRC was first discovered when EIRC hired a new Executive Director, who recognized that there had previously been severe mismanagement of EIRC’s funds. Prior to the arrival of EIRC’s new management, EIRC petitioned the Department of Education for a “waiver” to allow it to continue to borrow against two lines of credit. The request was denied; however, senior management took no action to modify its operating procedures to move away from its heavy reliance on credit.

In Fall 2016, after EIRC’s new Executive Director and Assistant Business Administrator were able to fully examine EIRC’s financial status, they determined that EIRC has been continually hemorrhaging money. Indeed, according to the most recent audit, in 2015, EIRC’s



PARKER McCAY

liabilities exceeded its assets by \$4,054,137.75.¹ (See Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016, p. 20 “Attachment A”). That number increased to \$6,138,198.07 in 2016. (See *id.*). Similarly, EIRC’s expenses have consistently outpaced its revenues. (See *id.* at 21).

In an effort to remedy EIRC’s financial situation, the Board of Directors passed a resolution that gave the Executive Director, the Business Administrator, and this Firm, the power to take any actions necessary to stabilize EIRC’s finances.

From the audit and the most recent financial report generated by the Business Administrator, EIRC has determined that there is no way to reallocate funds to remedy EIRC’s financial position. EIRC has reached a position where its liabilities severely exceed any cash it has in the bank. (See Financial Position Through March 28, 2017 “Attachment B”).

As it stands now, EIRC has determined that it does not have sufficient cash on hand to continue operating through the end of April, and the Board of Directors has authorized the dissolution of EIRC as of March 31, 2017. (See March 8, 2017 Minutes “Attachment C”). As a result, EIRC will no longer be able to provide the valuable services it facilitates for New Jersey’s educational community. Although previous mismanagement has led to this crisis, EIRC is confident that the changes made to its practices, procedures, and personnel will prevent a similar situation from unfolding again if it is granted emergency aid. Accordingly, EIRC respectfully requests emergency aid so that it can continue to meet its mission to improve educational services for the students of New Jersey.

If you have any questions, please contact me.

Very truly yours,

FRANK P. CAVALLO, JR.

FPC/ke

Cc: Christopher Huber, Esq. (via electronic mail and Federal Express)

David T. Lindemuth, Executive Director (via regular mail)

¹ The audit could only give a qualified opinion on EIRC’s financial picture due “to the lack of accounting controls in place over the reconciliation of accounts, recording of accounts payable and encumbrances, positing of journal entries for non-cash transactions and the lack of a methodology for reviewing the collectability of accounts receivable.” (See *id.* at 14).

EXHIBIT "A"

INDEPENDENT AUDITOR'S REPORT

The Honorable Chairman and
Members of the Board of Directors
Educational Information and Resource Center
200 College Drive
Blackwood, New Jersey 08012

Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the Educational Information and Resource Center, as of and for the fiscal year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the Educational Information and Resource Center's basic financial statements as listed in the table of contents.

Management's Responsibilities for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and in compliance with audit requirements as prescribed by the Division of Administration and Finance, Department of Education, State of New Jersey. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Educational Information and Resource Center's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Educational Information and Resource Center's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting principles used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND
OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS**

INDEPENDENT AUDITOR'S REPORT

The Honorable Chairman and
Members of the Board of Directors
Educational Informational and Resource Center
200 College Drive
Blackwood, New Jersey 08012

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial statement audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and in compliance with audit requirements as prescribed by the Division of Administration and Finance, Department of Education, State of New Jersey, the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component unit, each major fund, and the aggregate remaining fund information of the Educational Information and Resource Center, as of and for the fiscal year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the Educational Information and Resource Center's basic financial statements, and have issued our report thereon dated February 14, 2017. Our opinion was modified to include a qualified opinion on the governmental activities, business-type activities, general fund, special revenue fund, enterprise funds, and internal service funds because of the lack of accounting controls in place over the reconciliation of accounts, recording of accounts payable and encumbrances, posting of journal entries for non-cash transactions and the lack of a methodology for reviewing the collectability of accounts receivable. Our report on the financial statements included an emphasis of matter paragraph describing the ability of the Educational Information and Resource Center to continue as a going concern.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statements, we considered the Educational Information and Resource Center's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Educational Information and Resource Center's internal control. Accordingly, we do not express an opinion on the effectiveness of the Educational Information and Resource Center's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying *Schedule of Findings and Questioned Costs and Independent Auditor's Management Report on Administrative Findings - Financial, Compliance and Performance*, we identified certain deficiencies in internal control that we consider to be material weaknesses and significant deficiencies.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying *Schedule of Findings and Questioned Costs and Independent Auditor's Management Report on Administrative Findings - Financial, Compliance and Performance* to be material weaknesses as findings no. 2016-001, 2016-002, 2016-006 and 2016-007.

The following table provides a summary of revenues and expenses for the Center's governmental and business-type activities and the change in net position from the prior year:

	Changes in Net Position					
	FY2016		FY2015		Total	
	Governmental Activities	Business-Type Activities	Governmental Activities	Business-Type Activities	FY2016	FY2015
REVENUES						
Program revenues:						
Changes for services	\$ 3,398,332.79	\$ 9,938,923.07	\$ 3,360,774.85	\$ 10,907,812.84	\$ 13,337,255.86	\$ 14,268,587.69
Operating grants and contributions	6,490,266.84		5,333,874.95		6,490,266.84	5,333,874.95
General revenues:						
Grants and entitlements						
Contracts	654,876.99		1,623,466.65		654,876.99	1,623,466.65
Other						
Total revenues	10,543,476.62	9,938,923.07	10,318,116.45	10,907,812.84	20,482,399.69	21,225,929.29
EXPENSES						
General administration	8,082,829.12		7,771,560.34		8,082,829.12	7,771,560.34
Employee Benefits	3,226,959.12		2,575,819.54		3,226,959.12	2,575,819.54
Interest of long-term debt	14,200.95		23,984.34		14,200.95	23,984.34
Research & grants		411,049.45		369,087.35	411,049.45	369,087.35
Monarch program		176,183.73		213,299.79	176,183.73	213,299.79
Technology		9,237,506.83		8,243,950.30	9,237,506.83	8,243,950.30
Professional development		1,114,478.43		1,114,766.81	1,114,478.43	1,114,766.81
National talent network		90,856.85		88,332.14	90,856.85	88,332.14
School bus advertising		199,991.60		205,402.76	199,991.60	205,402.76
Unallocated depreciation	12,403.93		45,451.30		12,403.93	45,451.30
Total expenses	11,336,393.12	11,230,066.89	10,416,815.52	10,234,839.15	22,566,460.01	20,651,654.67
Transfers						
Increase (decrease) in net position	(792,916.50)	(1,291,143.82)	(98,699.07)	672,973.69	(2,084,060.32)	574,274.62
Net Position, July 1	(1,658,571.39)	(2,395,566.36)	(1,559,872.32)	(3,068,540.05)	(4,054,137.75)	(4,628,412.37)
Net Position, June 30	\$ (2,451,487.89)	\$ (3,686,710.18)	\$ (1,658,571.39)	\$ (2,395,566.36)	\$ (6,138,198.07)	\$ (4,054,137.75)

Budget

The General Fund budgetary comparison schedules are presented as Exhibit C-1 in this report. Revenues realized were \$494,096.05 less than budget, which contributed to a deficit in current year operations.

Capital Assets

At June 30, 2016 the Center's investment in capital assets amounts to \$125,306.05 net of accumulated depreciation. The investment in capital assets includes land, building improvements, machinery and equipment, and vehicles.

Debt Administration and Other Obligations

At June 30, 2016, the Center did not have any outstanding long-term debt obligations. Additional information on the Center's debt administration and other obligations can be found in Note 5 to the basic financial statements.

Government-wide Financial Analysis

As noted earlier, net position may serve over time as a useful indicator of the Center's financial position. The following table provides a summary of net position.

Statement of Net Position

	FY2016		FY2015		Total	
	Governmental Activities	Business-Type Activities	Governmental Activities	Business-Type Activities	FY2016	FY2015
ASSETS						
Current and other assets	\$ 2,468,919.06	\$ 1,288,766.12	\$ 2,897,392.52	\$ 1,747,691.02	\$ 3,757,685.18	\$ 4,645,083.54
Capital Assets, net	51,345.17	73,960.88	501,073.68	43,035.56	125,306.05	544,109.24
Total Assets	2,520,264.23	1,362,727.00	3,398,466.20	1,790,726.58	3,882,991.23	5,189,192.78
DEFERRED OUTFLOWS OF RESOURCES						
Related to Pensions	2,147,698.81	1,742,355.20	1,039,292.94	866,967.06	3,890,054.01	1,906,260.00
LIABILITIES						
Current Liabilities	1,621,207.67	2,657,241.35	1,695,586.78	2,039,166.22	4,278,449.02	3,734,753.00
Noncurrent Liabilities	5,417,599.12	4,069,127.16	4,197,526.99	2,844,572.54	9,486,726.28	7,042,099.53
Total Liabilities	7,038,806.79	6,726,368.51	5,893,113.77	4,883,738.76	13,765,175.30	10,776,852.53
DEFERRED INFLOWS OF RESOURCES						
Related to Pensions	80,644.14	65,423.87	203,216.76	169,521.24	146,068.01	372,738.00
NET POSITION						
Net Investment in Capital Assets	51,345.17	73,960.88	104,598.78	43,035.56	125,306.05	147,634.34
Restricted						
Unrestricted (Deficit)	(2,502,833.06)	(3,760,671.06)	(1,763,170.17)	(2,438,601.92)	(6,263,504.12)	(4,201,772.09)
Total Net Position	\$ (2,451,487.89)	\$ (3,686,710.18)	\$ (1,658,571.39)	\$ (2,395,566.36)	\$ (6,138,198.07)	\$ (4,054,137.75)

EXHIBIT “B”



I, William R. Blatchley, Assistant Secretary of the Educational Information and Resource Center (EIRC), in the County of Camden, State of New Jersey, hereby certify that the foregoing annexed extract from the draft minutes of the meeting of the Board of Directors of said EIRC duly called and held on 8 March 2017, have been compared by me with the original draft minutes as officially presented to the EIRC Board of Directors and recommended for approval at the next official meeting of the EIRC Board of Directors is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

A motion was made by Mr. Deserable, seconded by Mr. Highsmith to approve the following:

- 13.02 Authorize the dissolution of Educational Information and Resource Center (EIRC) as an operating entity at a time and date to be determined by the Executive Director but no later than 31 March 2017.
- 13.03 Authorize the following actions be taken at the discretion of the Executive Director, under the advisement of special counsel, pursuant to the dissolution of EIRC:
- a) Notify and terminate all non-essential staff effective no later than 31 March 2017
 - b) Notify and terminate all essential staff effective when and as required
 - c) Negotiate with creditors and clients as may be required in order to complete the efficient dissolution of EIRC
 - d) Pay all sums due and owing using current funds as may be available
 - e) Terminate all commercial leases
 - f) Take whatever steps deemed necessary to collect sums due and owing to EIRC
 - g) Suspend all requirements for EIRC employees to provide advanced notification of intent to resign pursuant to the terms and conditions of existing employment contracts
 - h) Calculate and using current funds as may be available make payment to employees of all accrued vacation pursuant to the terms and conditions of existing employment contracts
 - i) Make bank and fund transfers as may be required in order to complete the efficient dissolution of EIRC
 - j) Open and close bank accounts as may be required to complete the efficient dissolution of EIRC
 - k) Value and liquidate the inventory and assets of EIRC
 - l) Make all notifications pursuant to these actions
 - m) Enter into, approve, modify, adjust, assign and cancel contracts, covenants and agreements between EIRC and EIRC employees, creditors, clients, customers, grantors and State and Local governing bodies of the State of New Jersey as may be required in order to complete the efficient dissolution of EIRC
- 13.04 Terminate the following EIRC staff effective 30 April 2017 pursuant to the terms and conditions as set forth in the current and existing employment contracts:

D. Lindenmuth
W. Blatchley



(856) 582-7000 • Fax: (856) 582-4360
200 College Drive • Blackwood, NJ 08012

ON A ROLL CALL VOTE:

Ayes: (11) Ms. Alpert, Dr. Bush, Ms. Brown, Ms. Bullock-Beaufait, Mr. Deserable, Ms. Halscheid, Mr. Highsmith, Mr. Jankowski, Mr. Keepers, Mr. Piccirillo, Ms. Varallo
Nays: (0) none
Abstentions: (0) none

In witness whereof, I have hereunto
set my hand and affixed the corporate
Seal of said EIRC this
29th Day of March, 2017.

William R. Blatchley, Assistant Board Secretary

EXHIBIT “C”

EDUCATIONAL INFORMATION RESOURCE CENTER

Financial Position Through March 28, 2017

GENERAL ACCOUNT		\$1,589,372.17
GRANT FUNDS		\$300,946.95
ENTERPRISE FUNDS		-\$1,649,754.40
INTERNAL SERVICE FUNDS		\$ 245,824.96
BANK SUMMARY-CASH AVAILABLE-TD BANK		\$486,389.68
MONEY MARKET FIRST BANK		0.00
<u>TOTAL AVAILABLE</u>		\$486,389.68

PURCHASE ORDERS		\$3,202,798.36
<u>TOTAL PAYABLES</u>		\$3,202,798.36

FINANCIAL POSITION AS OF 3/28/17

(\$2,716,408.68)