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<td>ADA BETH CUTLER, Ed.D., Dean, College of Education And Human Services, Montclair State University and</td>
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<td>CANDACE BURNS, Dean, College of Education, William Paterson University and</td>
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<td>SARAH M. KERN, Ph.D., Department Chair, Elementary and Early Childhood Education, The College of New Jersey, and</td>
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<td>RICHARD G. BOZZA, Ed.D., Executive Director, New Jersey Association of School Administrators, and</td>
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<td>PATRICK McGUINN, Associate Professor, Department of Political Science, Drew University</td>
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<td>DAVID NASH, Esq. Legal Counsel, Field and Legal Services, New Jersey Principals and</td>
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SENATOR M. TERESA RUIZ (Chair): Good morning, everyone, and welcome to the December 9th Education Committee Tenure Hearing.

Before I present my opening remarks -- roll call.

MS. SAYNISCH: Senator Kean?
SENATOR KEAN: Here.

MS. SAYNISCH: Senator Allen will be arriving shortly.

SENATOR RUIZ: Here.

Good morning, everyone. I just want to take this opportunity to thank all of the individuals that, up to this process, have really helped to create what we will see today unfold in a conversation about change, a conversation that will ensure that our children come first.

In 1909, New Jersey passed the first tenure bill system. And while several amendments have been made throughout this century, there is still one cry of call, whether you are a practitioner, whether you're a student, whether you're a principal, whether you're a union, whether you're a parent -- it's that something needs to change.

And that certainly today we have brought together experts from all levels -- whether from inside of the classroom or from advocacy groups -- that will share with us tenure through their eyes: the obstacles, the pitfalls, the challenges, and how that we can use today's Committee hearing as my launching pad to create a tenure process that will put our students first.

When we talk about a teacher in a classroom, I always say that it is the most important career in any way, shape or fashion. We are creating the foundation for the future.

And it doesn't matter where you're from -- a suburban region or an urban region, if you're a parent, if you're an advocate or if you're a student, we always point to one solid thing, a good teacher, a good leader makes great change.

And that without question, if we all come together and coalesce that one single promise, we can create some dramatic, positive change, because certainly this is about a
positive conversation. It's about supporting and respecting teachers across the board. It's about looking at good leaders and good principals from all walks, whether they are traditional charter schools or in public schools, or in the private sector and saying that, "We're here to support the work that you do."

And as I look out into the audience, I see friends who really have watched me grow up, and educators and leaders like Mike Pallante, who has had tremendous experience in both worlds of both the charter and public schools, and really creating effective change. And a man, who, without question, is synonymous with putting education forward, and that's Steve Adubato.

And we would not be here today if it wasn't for the work of people like Osomo Thomas and Mary and Kathleen, and all the members and staff in my office who really are energized about the possibilities that we have before us. So that being said, I look forward to rolling up my sleeves after the hearing. I look forward to learning. I wish I was an expert in this. I wish I had the answer today. I don't. But I do know one thing, that something's got to change, and that our students can't wait any longer.

Without further ado, I would like to invite the Department of Education for their testimony.

CHRISTOPHER EMIGHOLZ: Good morning, Chairwoman Ruiz. Thank you very much for the invitation to testify. And I wanted to start, on behalf of the New Jersey Department of Education, to just say thank you. We think you and this entire Committee deserve a ton of credit for pushing this very important discussion forward. As you said, it's a necessary discussion. Something needs to change.

Many people in the room might have different ideas on what needs to change, but we need to start working on what that change will be. So we appreciate this hearing. We think it will be a great step forward. We believe tenure reform is necessary for our children -- to make education and educational people involved in the profession focused on effectiveness. We believe it is necessary for our taxpayers. We believe it's necessary for our state and our nation to compete more effectively with other states, other nations.

As we get into tenure reform, I do not want to forget that there are many excellent educators throughout the state. And when we talk about tenure reform, we're not saying that we don't have excellent educators, we're not saying that we should ignore them. I think tenure reform actually recognizes them. I think tenure reform will actually encourage them to stay in the classroom, encourage them to-- We're embracing their effectiveness, we're embracing the good things that they do and just hope that more people can get to that level, and we can't forget that. We would be remiss if we forget about the excellent educators that we do have.
But we do all know that not every educator is excellent. And if there is any educator that is impeding or slowing or delaying the growth and potential of any student in New Jersey, we need to address that. And I don't think the State's been vigorous and aggressive enough in addressing the ineffective educators that we have in this state.

An example of that is some research that we've done. In the year 2008, the State of New Jersey had 35 tenure cases open. That is approximately -- That is, out of approximately 230,000 public school employees in the State of New Jersey, there were 35 tenure cases opened. That's 0.015 percent, or less than 2 in every 10,000 educators where tenure charges or dismissal was sought. Think about that again: Two -- less than 2 in every 10,000 educators where a school district sought their dismissal.

I don't think that you're going to see that in any profession anywhere. And I know that we can't say that 9,998 of those 10,000 educators are doing an excellent job and are letting all their students reach their growth or reach their potential. So we know something -- again, just as the Chairwoman said at the beginning, something needs to change.

The one thing we really want to change is, we need to make the system more based on effectiveness.

One thing that is startling -- and you're going to hear from Kathy Duncan and Eric Taylor in a little bit -- but going through the Department of Education, we've heard that it's very, very rare to see cases -- in the tenure parlance it's inefficiency. Most tenure cases are about conduct unbecoming or basically poor behavior. But probably about one a year is inefficiency or ineffectiveness.

So one teacher a year a school district seeks to dismiss because they're not effective at teaching their students; one a year. We need to do more because we know there are teachers out there that are not effective. I wouldn't say it's the majority. I think we need to do a better job to figure out who is effective, but we know it's more than one a year in the entire state that's doing a less than effective job with their students.

So the Governor wants to address this. On September 28 he announced plans to address educator effectiveness.

The key part of his plan is, he wants to -- He has created an Education Effectiveness Task Force, a nine-member panel that's going to be looking at, how do you properly evaluate teachers? That is their mission. They're not looking at all the other things that may be discussed today, it's how do you properly evaluate educators?

The reason that is the first step, the reason that may be the most important step, because I don't think a lot of the other things that we're looking at today, and a lot of the other things about tenure reform can happen until you
know how to evaluate teachers, until you know how to do it properly, until you give those excellent teachers the credit they deserve, and until you can figure out who are the ones that are doing a disservice to their students.

So number one, how do you evaluate teachers?

Then number two, the Governor wants to make effectiveness the critical point.

And so effectiveness will be what drives compensation, not the years in the classroom, not the amount of degrees that you have. And that effectiveness will also create a career ladder opportunity for teachers, for principals, for educators where they can have a chance to become master teachers, can have a chance to become master principals, have a chance to move up within their profession, but maybe not leave the classroom that they're excellent at, or the principal position that they're excellent at.

But I don't want to take too much time talking about the Governor's agenda; I don't want to take too much time more about the need for tenure; what I want to do today is offer the DOE up as a resource for you. And I've worked with you before, but I am not the expert or the resource that you deserve, but I brought two people today, and I'd like for them to introduce themselves, and then one of them, Kathy, to quickly go through one of the attachments that we've provided you.

But Kathy Duncan and Eric Taylor can help you with any questions you may have about the legal aspects of tenure, the process, the DOE's role in tenure. And I want you to ask away, -- ask as many questions as you have, and to help a little bit going forward is the testimony that we provided. There are three attachments. One is a statutory timeline of how tenure works; one is a description of the Office of Controversies and Disputes at the DOE, which is where the tenure cases go through as well as all Office of Administrative Law cases, OAL cases; and the third one is that 2008 summary of tenure cases that I pointed out to you and how those 35 cases were resolved. And I thought those would be a good resource to start with.

But I now want to turn it over to Kathy and Eric to answer your questions and to talk a little bit about how tenure works.

And I would like to start, I think, with Kathy and Eric introducing themselves, and then Kathy going through maybe that tenure timeline that is in your attachments.

So Kathy and Eric.

SENATOR RUIZ: Kathy, if you'll just, for a moment -- I just want to encourage the Committee members, that throughout today's testimony and at any point in time, this is about a true conversation, so jump in with questions, with any comments so that we can really, really begin to engage in a conversation about change.

KATHLEEN DUNCAN, ESQ. Good morning. My name is Kathy
Duncan; I'm the director of the Office of Controversies and Disputes at the Department of Education. I've been a lawyer in New Jersey for 35 years, all of which have involved education law in one way or another: first as a private practice attorney, then as a deputy attorney general assigned to represent the Department of Education, then as an administrative law judge where I heard lots of education cases, and now as the Director. Before I went to law school, I was an elementary school teacher for three years, so I know a little bit about education. Having been a teacher, I prepared a couple of handouts for you. If you want to take a look at the one that says Controversies and Disputes at the top, that will give you a brief summary of my office and what it does.

The kinds of cases that are within the Commissioner's Controversies and Disputes jurisdiction are listed in the first paragraph. I won't go through them; you can read them. They start there with student discipline and go on to the end of that paragraph. At the bottom I've listed for you the number of cases that have been opened by Controversies and Disputes since 2002. The numbers in parenthesis. Those represent tenure charges. The other handout that I prepared is called Timeline for Tenure Charges. The first six paragraphs there, the first six boxes -- those all happen before the charges are certified to the Commissioner of Education. Those all happen at the district level. The timelines are all statutory, or in some cases regulatory, to implement the statutory directives. The first paragraph where the Commissioner gets involved is the seventh one down, where the statute provides that upon certification of any charge to the Commissioner, the Board may suspend the person against whom such charge is made, with or without pay, but if the determination of the charge by the Commissioner is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary, except for the 120 days of such person, shall be paid beginning on the 121st day. This is one thing that makes prosecuting tenure charges expensive because, if they're not completed within 120 days of certification to the Commissioner -- which they almost never are -- then the person starts getting paid again their regular salary, and that continues until the commissioner issues his or her final determination.

SENATOR RUIZ: Kathy, if I could just -- right there -- and if you would put your mic closer to you, because it is difficult to hear. Within that 120-day time frame, could you give a -- a kind of a general analysis as to how many cases get summed up within that time frame?

MS. DUNCAN: The ones that settle -- that's it.
And of those 2008 cases that Chris mentioned to you earlier, 15 of those were settlements, 15 out of 35. So really, that's the only practical way to get the case completed within the 120-day time frame.

After the charges are certified to the commissioner, the respondent -- the teaching staff member, or in some cases, a secretary or a custodian, because they have tenure under the statute -- also has 15 days to file an answer to the charges. After the answer is filed, the commissioner has 15 days to review the charges and the answer and make a determination concerning whether if the charges are true, they would warrant removal of tenure or a diminution in salary. The Commissioner never takes those 15 days. We have those reviewed and pretty much out of the Department of Education over to the Office of Administrative Law within a couple of days. So there's no delay there.

We have 10 days after the determination is made by the Commissioner about the sufficiency of the charges to then transmit them to OAL. And as I said, that doesn't happen. That whole process takes place within a couple of days after the answer comes in.

So now we're up to the 10th paragraph and that's where the Department of Education loses jurisdiction for awhile. Once the cases are at the Office of Administrative Law, the commissioner has no jurisdiction over them. The statute and the regulations require that the Office of Administrative Law conduct a prehearing conference within 30 days of when they get the charges. And the first discovery requests are required to be issued within 30 days after the commissioner transmits the charges. Then there is a discovery period, which was usually is about 60 days. It's 30, but then it can be extended for another 30 for a good cause, because tenure charges are complex and because they involve the teacher's livelihood. Frequently the discovery period is extended.

Then the hearing is supposed to commence within 30 days of the close of the discovery period. The hearings, depending upon the complexity of the charges, can take a few days or maybe as much as 25 or 30 days of testimony. After the conclusion of the hearing, the parties have 15 days to produce the transcripts to the judge if they wish to do that. It's hard to produce the transcripts within 15 days, because you really have to order expedited transcripts if that's going to happen, and they cost a lot of money.

Then they have 30 days after they get the transcripts to prepare and file their briefs with the Administrative Law Judge. The Administrative Law Judge, at the close of the record, has 45 days to issue a decision, which isn't really a long period of time for the judge, because the judge is hearing all sorts of other cases in those 45-day period -- in that 45-day period, and must write an initial decision
for every single case which is heard.
So they have 45 days to write an initial
decision, which is really a recommendation of Findings of
Fact and Conclusions of Law to the Commissioner, and then it
comes back to the Department of Education.
So now we're back down to oh, I think, paragraph
0017
1  16. After the receipt of the Administrative Law Judge’s
2 recommendations, the commissioner has 45 days to issue a
3 final decision.
4 We try very hard not to take more than 45 days.
5 You can get an extension for good cause.
6 SENATOR RUIZ: At this point in time, and
7 forgive me, because I just keep hearing segments of days -- so
8 at this point the 120 days have already expired, you passed
9 it, so now the person who is in the process of being heard in
10 -- in their fair hearing is back on the payroll?
11 MS. DUNCAN: On the 121st day -- except for any time
12 that was a delay caused at their request -- you can subtract
13 that and not pay them for that.
14 So yes, we are well beyond the 120 days at this
15 point, Senator. We have 45 days from the day that we get the
16 Administrative Law Judge’s decision to assist the Commissioner
17 in preparing a final decision. And following that, if the
18 person is unhappy or the district is unhappy, they can appeal
19 to the Appellate Division. And that's basically it.
20 And all those timelines are set forth in the
21 left-hand column there for you with the statute and the
22 regulation that requires them.
23 My concern in this whole process is to ensure that
24 the process remains just and fair. Other than that, I
25 really have no official opinions.
0018
1 Thank you.
2 SENATOR WHELAN: Madam Chair, just a few
3 questions if I could, Ms. Duncan.
4 I see in 2010, you have 700 cases.
5 SENATOR WHELAN: Which seems to be-- I mean,
6 most of the time you've been around 400, a little above, a
7 little below; and now all of a sudden you're up to 700. Is
8 there any particular reason why we've seen a jump?
9 MS. DUNCAN: Yes. The reductions in force notices
10 that went out because --
11 SENATOR WHELAN: Okay.
12 MS. DUNCAN: -- of the economic situations, anytime
13 a teacher is given a notice that they're not being renewed
14 because of reduction-- Or they're not being offered a contract
15 because of a reduction in force, a case gets filed.
16 Frequently they get resolved quickly because a
17 teacher gets recalled, but, you know, the issue there is,
18 are you violating my tenure and seniority rights? Are you
19 retaining someone else who has less seniority --
20 SENATOR WHELAN: Bumping rights and all that
21 stuff. Right.
22 MS. DUNCAN: -- and tenure? That's what those
SENATOR WHELAN: This question may be better for you, Chris, I don't know. But you talk about the -- only 35 tenure cases; are there any statistics or any sense of how many teachers are resigning or retiring from schools, you know, at the suggestion of the administration and not getting caught up in the tenure system?

In other words, they don't want to be fired, you know, someone's been there for 30 years, they're burned out, the administration comes and says, "You ought to think about retiring." And they say, "Okay, fine." And they go out the door. Or someone not in a pension situation, but they're just not making the mark and the school -- someone from the school administration goes and says, "Look, we have this problem; this problem; this problem; this problem; you know, we may bring you up on tenure charges." And they say, "Oh, the heck with it, you know, time to move on."

Do you have any sense of any numbers on that?

MR. EMIGHOLZ: That would be-- That's an excellent point. That would be harder to track, because they don't come through the Department of Education. And that's also-- You would have to rely on districts and you would have to reach out to almost 600 districts that we have in the state and find out if that's happening. I'm sure it is happening. As we talked about many of the tenure cases, once they go there, then there might be a settlement that involves somebody deciding to just leave or resign.

But, yes, unfortunately, we don't have that data because it's a little more cumbersome to get that.

SENATOR WHELAN: Thank you.

MR. EMIGHOLZ: Thank you.

SENATOR RUIZ: In the synopsis of the cases that were being brought forward, you said that I'm not sure if any were brought up because of effectiveness in the classroom.

MS. DUNCAN: Well, that comes under the category of Inefficiency, and we get one or two of those a year.

They're very hard to prove and they're hard to prepare.

SENATOR RUIZ: And so you bring-- Okay, because they're hard to prove.

And I'm not sure who would be able to answer this question but, why is it, then, that you think that we don't get more of those cases based on what's happening inside of a classroom?

MR. EMIGHOLZ: I think it's something that this Committee has heard, members of this Committee have talked about and the Governor has said time and time again is, I don't think that we have the data that we need in this state to effectively judge effectiveness all the time.

And I think there is probably a "smell test" or -- and there's probably principals who walk into a
classroom and know that a teacher is a fantastic teacher, and
doing everything and hitting everything out of the ballpark.
And you could probably walk into a classroom and have a hunch that
a teacher might not be so great.
But in our current system with our current data,
it's harder to get there. That's why the Governor has prioritized
having a better data system. We've talked about that over the years.
And we're very excited that now as a priority
with the Department of Education, NJ SMART System that you've heard
about for years, is making great progress.
We now have a lot more data in terms of what's going on
in schools, what's going on with the students.
The link to teachers is coming. We're getting
very, very close, and we think that should happen possibly next
school year, but we're getting there.

SENATOR RUIZ: Can anyone give me, kind of, a
cost estimate on one case, or globally for the year:
what it costs to conduct a full case from beginning to end --
average?
MS. DUNCAN: I would think that the attorneys who
represent boards would be in a better situation to give you
that information.
SENATOR RUIZ: Okay; thank you.
MS. DUNCAN: I don't know.
SENATOR RUIZ: Are there anymore questions or
comments from Committee members?
(No response.)
SENATOR RUIZ: Thank you very much.
MS. DUNCAN: Thank you.
MR. EMIGHOLZ: Thank you.
SENATOR RUIZ: Next, I would like to invite --
and freshly off a plane -- is Senator Mike Johnston from Colorado,
who I just want to thank you very much for taking the time
to come out and lend testimony. And I'll leave it up to you to,
kind of, introduce yourself and talk a little bit about what
global changes are being done across this nation.

SENATOR MICHAEL JOHNSTON: Thank you, sir.
It's supposed to be a red light?
SENATOR RUIZ: Yes, red.
SENATOR JOHNSTON: Okay.
SENATOR RUIZ: Red means go.
SENATOR JOHNSTON: It's good.
Well, thank you, Madam Chair; and good morning,
members of the Committee. Thank you so much for having me;
my name is Mike Johnston. I'm a State Senator from
Colorado. Just in my second year in the State Senate
there. Before that I spent the last eight years as a high
school teacher and a high school principal, spent the last
six years as a principal of two different urban high
schools in the Denver Metro area.
Our population of kids is about 75 percent of
students on free and reduced lunch; about 75 percent of
those students are Latinos. So it's a largely immigrant
population of families from Mexico and Guatemala and north
Denver suburbs.

So my career has been in education, and I'm relatively new to the State Senate.

But I'm excited to talk to you a little bit about some of the education legislation that we worked out in Colorado, and what I think is part of a national trend towards trying to get better outcomes for kids.

As you all probably know, I think there is an overwhelming body of evidence now that demonstrates that the single most important variable affecting the success of students is by far and away the effectiveness of the teacher in that student's classroom. And for many of us, that's a "duh" moment. Of course we probably always believed that and have always seen that, but now I think research shows that overwhelmingly to be the case.

And the second most important variable by far is the effectiveness of the principal. So if you look at the combination of a great teacher and a great principal, those two things account for somewhere around 70 percent of the total in school impact on student performance.

And so where we started in Colorado was, if we all care about the same things -- which we do -- what do we do to close the achievement gap in Colorado? What do we do to make sure that every student is ready for college or ready for a career when they graduate?

If we wanted to make movement on those big issues, the only way to do that is by pulling a lever that has an equally powerful impact.

And so we thought the most important place to start was with what do we do to recruit, retain and reward more great teachers and more great principals?

And just as an example, when you think of other important education reforms that we've talked about in the past? For instance, class size reductions -- and I think that's always a big point of discussion -- the impact of a highly effective teacher is two and a half times greater than the impact of class size reductions.

So literally when you talk about other reforms that we debate in chambers like this, most of those reforms will literally be rounding errors on the impact size of a highly effective teacher.

Another common statistic is that you take a student that is multi-grade levels behind in your system -- we know that if we put that student in the classroom of a highly effective teacher for three consecutive years, you've actually entirely closed the achievement gap.

The most sure way to do that is to put our lowest performing kids in front of our highest performing teachers for a consecutive number of years.

We also know that the opposite is true. You put our lowest performing students in front of our least effective teachers and you actually blow that achievement gap so wide you will probably never close it.

So that was the research background, and our own observational background from folks that are out...
there doing this work every day; that we know the only way to
fix this problem is to start with great teachers and great
leaders.

So the legislation that we looked at in Colorado
started by saying, you know, what would it take to
fundamentally change the principalship and the teaching
profession so that we define success as adults when we
were successful with kids?

And so we started by saying that, you know, 50
percent of every teacher’s evaluation and 50 percent of every
principal’s evaluation ought to be based on demonstrated impact
on student growth, which is, quite simply saying, that whatever
a student knows when they walk in the door on September 1st,
they ought to know more when they walk out the door on May
30th, when the school year’s over.

And the growth measure is critical here because
we’re not saying that it’s the raw performance, we’re not
saying it’s whatever the student’s score is on the state test
in May, because we know the students come in with different
levels of preparation. That would have the effect of just
continually telling us that students in our more affluent
suburbs were doing really well, and students in our poorer
cities weren’t doing well.

Instead, because it’s all focused on growth, we’re
only saying, where did the student begin; and what progress
did the student make?

So it doesn’t matter if a student comes into your
class three years behind grade level. The question is, at
the end of that year are they now only two years behind
grade level, or hopefully one and a half years behind grade
level?

And so the entire metric is focused on growth.

And I’m happy to talk about that more if you have questions.

And the second part was -- and we agreed in Colorado,
I think all parties agreed -- that the current teacher and

principal evaluation system was broken. I think a lot of folks
disagreed on how to fix it, but we all agreed it was broken.

And so our belief was, that if we are going to
build evaluations that were linked to student growth, then
those evaluations ought to mean something once we rebuilt
them, and they ought to have impact for teachers and impact
for principals.

And so we decided that, you know, the most
significant privileges that we have to give in the teaching
profession are in Colorado what we call non-probationary
status, or what most states call tenure.

And so our belief was, that is a
privilege that we want to keep, because we believe that job
protections are an important benefit to offer in the teaching
profession. We don't yet have $50,000 signing bonuses to
offer teachers, or four-day vacations to Maui in the summer for
the top sales rep in the firm.

And so one of the things that we do have are
our job protections.
But we firmly believe that those job protections ought to be earned based on demonstrated performance, and they ought to be kept based on demonstrated performance. And so what we said is, our new state law says that based on these evaluations on effectiveness, a teacher must have three consecutive years of demonstrated effectiveness to earn tenure. So if you're like me and you come in as a first-year teacher and you're pretty crummy, then it might take you four years, because it might take your second year to get up on your feet, and then your third and your fourth year you would have three consecutive years. If you had two good years and two bad years, it might take you seven. If you were an inconsistent performer throughout your career, you might not ever earn those job protections. But that's exactly the idea, is that those job protections ought to be reserved for those people who truly have earned them by outstanding and consistent performance over time. And the second part of that is, that people ought to continue performing that way to keep those protections. And so anyone in the system who has tenure, if they have two consecutive years of ineffective performance, they lose those tenure protections. And the way we saw it is, that was a way to really make tenure an actual badge of honor. Something that everyone who had it -- people would know, wow, this person is really one of the great practitioners in their field. I think too often it's viewed as something that protects low performers in the field. We're proud to say now that when this law takes effect in the State of Colorado, there is no teacher in our state who will have those job protections who we know didn't earn it to get them, and doesn't continue to earn them to keep them. So that was the foundation of that. We also realized that there are other parts of the human capital system that were broken, and so you couldn't just change the evaluations and be done. For instance, I think that it's true in our state and in most, that one of the reasons why we don't have a stronger and more effective core of teachers is, that we don't have a stronger and more effective group of school leaders, and that so much of this is about leadership, and so--

SENATOR WHELAN: Excuse me, Madam Chair. Could we back up? As the Chair has indicated, we're really having a conversation here. You talk about the consecutive years, you're looking at a teacher, they do three consecutive years of growth, or two consecutive years, all right; so they get tenure, and then five years from now they have a couple of bad years in a row. What is the standard that determines -- presumably kids come in September 1, and by the end of the school year there is some growth unless the teacher sat there and read the newspaper all year.
So what's the standard? How much -- I mean, ideally you have at least a year's worth of growth with, you know, the kids are reading on the third-grade level, at the end of the year they're reading on a fourth-grade level. What's the standard that says this is the level of growth that you need to qualify to be eligible for tenure? And, conversely, what's the standard that says this is the level of unacceptable job and that, you know, could someone -- could force someone to lose their tenured status?

SENATOR JOHNSTON: Madam-- Do I go through the Chair, Madam Chair? I'm not sure.
Thank you, Senator; great question.
So those are the two most important and I think the most complicated parts of our bill: how do you define effectiveness; and how do you measure effectiveness? So what are the categories?
The bill outlined four categories of effectiveness.
So there are some that are highly effective, effective, developing and ineffective.
But what-- The timeline we set out is, there is-- We have appointed a governor's council which consists of 15 members, which includes teachers and principals and parents and business leaders -- a student is on it.
And that group is spending about six months making recommendations on exactly what your question is.

So what would be -- how much growth is enough to put a teacher or a principal in which level of effectiveness? They'll make recommendations to our state board, and the state board will -- will rule make based on those recommendations. It comes back to --

SENATOR WHELAN: So we're not there yet?
SENATOR JOHNSTON: Correct.
SENATOR WHELAN: Okay. We're not there yet.
SENATOR JOHNSTON: Those are being built right now.
SENATOR WHELAN: And just, you know, parenthetically, perhaps, in this conversation, I'm a teacher also, but I'm a phys ed teacher.
SENATOR JOHNSTON: Yes.
SENATOR WHELAN: So what do we do with the specialist -- phys ed, art, music, etc. What do we do with the special ed teachers?
SENATOR JOHNSTON: Yes.
SENATOR WHELAN: How are they factored in? And, again, you may not have an answer, but we'll all continue this dialogue to try to figure out --

SENATOR JOHNSTON: Okay.
SENATOR WHELAN: -- okay, what --
SENATOR JOHNSTON: Okay.

SENATOR WHELAN: -- you know, what is the standard of --
SENATOR JOHNSTON: Thank you.
And, Madam Chair, and Senator, it's a great, great question. This is the almost important part of the work here -- is, we did believe that there is value added in every content area.

And, So there were some folks who said that we shouldn't do this for PE and for music and for art, let's just do it in English and math. I spent four years as a principal in an art school, so my belief is, actually, I don't want to see us narrow the curriculum. And so we are saying that we're going to measure growth in all grade levels and all content areas.

What we use for the assessments for the untested grades and subjects is part of what that council is determining now. We actually have a full day meeting today. I will say there are a couple of ideas that we're working on. One is, do we bring together a coalition of teachers and educators and curriculum designers from across the state that would build a bank of assessments that could be used for untested grades and subjects?

What we've set up is, that the State Department of Ed will -- has been committed by the legislation to build a bank of assessments that will be available online for free, to all districts. And they could choose to use those if they wanted to. So that will be one option for districts. The other is, many districts do what we call student growth objectives, which is a more localized version where a teacher and a principal would sit down and say, here are my goals for growth for this semester; here's what we're doing in PE for -- for these standards for these six months; here's what I would like to see kids be able to do; here's how I'm going to measure when it's over, and you and I will sit back down and look at how the kids did and decide if we met those goals.

And, So there's a range of more standardized options to more locally designed options, and our council is looking at what package of those makes the most sense.

In the midst of that, when we are -- when you are assessing the teachers in the process, whether it's at three-year time frame or annually, what kind of support mechanisms are also in place or what kind of professional development structures are there so that if there's someone that is showing great light and leadership, but perhaps needs some kind of training, what -- how has the state looked at, to also implement that type of resource factor simultaneously so that we're supporting an individual to the best of their capability?

So each year obviously a teacher gets an evaluation. And whenever that teacher's evaluation is found to be ineffective, then that teacher would receive a growth plan. And that growth plan would explicitly link to
So this is always about finding ways to improve people's practice. The goal is, that the evaluation actually improves people's practice, not that it identifies people that are low performing and leaves them there. And so there is both a growth plan there also and that operates on that.

We also have a structure in the bill that calls for career ladders, which enables us to identify some of the most effective principals and teachers in our state, and then asks, you know -- offer them additional responsibilities and additional pay to document and share their practices for the rest of the field.

So for instance, one of the things we --

SENATOR RUIZ: Like a master teacher?

SENATOR JOHNSTON: That is exactly right, except for, part of our -- one is a master teacher where, you can imagine, this is almost like the model teachers that teach behind a one-way glass, right, where we open up their classrooms and novice teachers can sign up. You can bring 10 or 15 teachers in three days a week to come and sit in the classroom and watch a great teacher. They have -- they'll have assessment plans, lesson plans where a young teacher can take away and actually see great practice.

The other version is, we actually do -- we're working to build an online forum where teachers would agree to share their lesson plan, share their classroom assessments. We would do classroom video of them.

So if you're in a more remote or rural part of the state and you're a first-year teacher teaching 7th grade math and struggling, you literally go to our Department of Ed website, click on 7th grade math standard or click the standard that you're teaching, and up would pop profiles of eight of the most effective teachers in the state in your content and grade level, and you can see them literally teaching the content that you're teaching. So it's all about really building a body of practice that supports people and improvement.

SENATOR RUIZ: Absolutely, Senator.

SENATOR WHELAN: Can I ask one other question?

SENATOR JOHNSTON: Of course.

SENATOR WHELAN: And this is a teacher question, Mr. Principal. You have two years of, you know, I've been a teacher for longer than this, but someone's been teaching for ten years, they're in the --

SENATOR JOHNSTON: Yes.

SENATOR WHELAN: -- you know they've done a good job, they have their -- what do they call it in Colorado?

SENATOR JOHNSTON: We call it non-probationary status.

SENATOR WHELAN: They're non-probationary and they're going along fine and they hit a couple of, you know,
two bad years in a row, and so they lose that status; where does that leave them? Are they then out of work, or are they then -- I mean, you know, in New Jersey --

SENATOR JOHNSTON: No.

SENATOR WHELAN: -- you're tenured or you're not tenured. At the end of three years your district has to make a decision, okay, we're going to tenure this person, and that provides a level of security, or they're not cutting it, they're out.

SENATOR JOHNSTON: Yeah.

SENATOR WHELAN: Are you out if you have two bad years, or what -- and what is the threshold to be out?

SENATOR JOHNSTON: Yes. Absolutely not, Senator.

And thank you, Madam Chair.

Absolutely not, Senator. And I'm so glad that you mentioned it. This is the key point. I think what we found is, the current system generates exactly that terrible decision after year three in our system, which is, after three years you are either up or out; right, because at the end of the third year you either have to tenure someone or you have to release them and they can never work in the district again.

And so what we see all the time is, friends of mine who are teachers work for three years with three years of solid evaluations; and then they're non-renewed at the end of the third year because the principal doesn't want to tenure them, right. Or the opposite, you have someone who hasn't got much support, at the end of three years the principal doesn't really know how good they are, but doesn't want to let them go and so tenure's them, and then in year four or year five you discover.

So the entire hope of this plan was to avoid that decision where it's possible someone is good in developing and you want to keep them on, but you don't want to have to make an up or out decision.

But to your first question, Senator, if someone loses tenure, the key point in our system is, there is nothing in our bill that ever requires the dismissal of a single teacher or a single principal.

So all that happens by state statute is that someone loses tenure and returns to probationary status. So they're still a teacher on -- you know, hired back at that school for the -- for their following year.

SENATOR WHELAN: And the local district -- can the local district then make the decision, okay, this guy lost his -- he's now back to his probationary status, we want to get rid of him?

SENATOR JOHNSTON: At the end of that year they could, yes.

So effectively they would have a third year to try to --

SENATOR WHELAN: Okay.

SENATOR JOHNSTON: -- and then, of course, they could earn tenure again.
So say they lose tenure after those two years, they're back to probationary status, they had a couple of bumps in the road, hard years, whatever happened --

SENATOR WHELAN: Okay.

SENATOR JOHNSTON: -- now they really recommit to the profession, started improving again, they could, after three years, earn those protections back.

And that's designed to-- I was about to talk about principals, but we've also designed the system so that principals' evaluations are now linked to student growth, but a principal's evaluation is also linked to the percentage of teachers who are effective in her building -- what the percentage of the teachers who are improving in her effectiveness.

And so there is now, for the first time, an incentive in our state law for principals actually to do the most important work, which is to be in classrooms supporting teachers to improve their practice.

I think for too long people have been able to be a good principal because you show up to football games or you break up fights in the hallways or you know all the parents.

And those are good things, but they're not nearly as important as actually being in classrooms supporting teachers.

So now, because the principals' effectiveness is tied to their own teachers, the principal now has the incentive to really support and develop those people the same way.

The principal might also say, listen, I know, you know, Mr. Smith had 2 bad years, but I've seen him teach for 15, I know that he's going to turn it around, and the principal always has that decision whether or not to release her and keep the teacher.

SENATOR RUIZ: Senator, do principals have that same kind of evaluation? Do they fall within the same practice?

Does this bill cover administrators? And are they the sole practitioners who do the reviews for their personnel?

And in addition to that, how is the hiring done?

Is it from a school, you know, hiring this way, or is it top down?

SENATOR JOHNSTON: Three great questions. I'll try to get to them all, Madam Chair.

And so first, this bill is absolutely about principal evaluations as much as about teachers' evaluations.

It's called the Great Teachers and Leaders Bill. It's about both.

And, So principals are at-will employees in the State of Colorado all the time. So there are no job protections for principals, and so that remains in case.

What we did change is, there was a form of protection for tenures -- which I think was a silly one -- which is: after three years, principals wouldn't earn any job protections, but they would go on a three-year evaluation cycle. So they would only be evaluated every three years.

We changed that so now every educator in the State of Colorado is evaluated every year. That means every
teacher every year, every principal every year.
And so that is a critical component of it, so that we know that if principals aren't performing over those series of years, they're always subject to dismissal.

To your next question about who does the hiring, this is a very important issue in Colorado, and was another part of the bill, which is what we call the Mutual Consent Section of this bill, or a School-Based Hiring, which is-- Previously in Colorado, you would often have the case where if there were teachers that had non-probationary status that didn't have an assignment or didn't have a position, the district would -- would place those teachers wherever there were openings.

And what normally -- what happens historically in our state -- I'm sure it's true in yours, too -- is that when you have those teachers that don't have an assignment, the superintendents or the districts tend to place them in the highest poverty schools and the schools with the highest concentration of kids of color. So I represent Northeast Denver, which is the poorest Senate district in our state, and we have a historically black high school there called Montbello. It has about 80 teachers, and this past year they had 20 -- they had 20 openings. And the principal and the team of teachers spent a long time working on hiring who they thought the best candidates were.

And then in August the superintendent calls and says, "We have 18 teachers we're going to have to place in your school." Those are 18 teachers who -- those teachers actually don't want that placement. The principal doesn't think they're the best candidates for the job, and they all have non-probationary status so they can't be removed.

And so our belief is, it's disrespectful to teachers to force them into an assignment they don't want, and it's disrespectful to principals to force them to take candidates that they don't choose.

So what we have set up now is any teacher that earns a position in the state has to be affirmatively hired by a principal with the involvement of at least two teachers. So we do have a requirement in the statute that teachers have some involvement in the hiring process.

At my school, like many, we have a hiring committee that's made up of myself and six teachers. We all make the decision together.

I think many, many schools I think that are good ones don't do hiring unless there's deep involvement from the staff. So we decided that we needed to have both. But we've also found in those successful schools, those are places where the adults feel a deep sense of ownership and identity over that building.

And when I ran a school, one of the reasons I took over the school was, our superintendent allowed me to have the chance to hire our own staff. And there was one point of which we took a direct placement in our school. And I was not nearly so upset as the teachers were, who had gone through an incredibly, incredibly vigorous process to get hired at our school and to hire
everyone else, and to have someone else who just walks in without
clearing any of those bars I think is really demeaning to the morale
of the building.

SENATOR RUIZ: Any questions? Comments? (no response.)
I just want to thank you again
for taking the trip and for conveying some actual things
that during this process practitioners have expressed -- kind of an
ownership of our school buildings and having the flexibility and
the opportunities to really create a structure that will benefit
the students and the school and just to shed light on what, you know,
other states are doing.

So I appreciate it. On behalf of the
Committee, I want to say thank you.

SENATOR JOHNSTON: Thank you.
Can I just-- One more thing, Madam
Chair -- very quickly?

SENATOR RUIZ: Absolutely.

SENATOR JOHNSTON: Just the final -- and I can get
you the fact sheet on our bill if you're curious -- but the
one other component that's in our bill I think is meaningful is,
we have, in our state statute, like many states have, a
reduction in force policy that says, whenever you have to
make layoffs in a district, you must always operate under
the last in, first out process, which means, whenever you lay
someone off, you have to start with the youngest employee and
layoff all the way up regardless of the quality of those employees.

And so one of the components that was in our bill was,
that we changed the state statute that said, when a district has to
make the hard decision of laying off employees, if we are looking to
allocate state resources in a way that is best for kids, what we
ought to do is keep our most effective teachers and principals and
lay off our least effective teachers and principals.

And so now, the first criteria that determines
how layoffs operate is, that first based on effectiveness,
and then second, an important criteria is seniority, but
effectiveness is always first.

And so if you have a second-year teacher who is
highly effective and a fifth-year teacher who is
ineffective, for the best interest of kids we would want
you, and I think the principal would want you, and the
district would want you to keep that more effective
second-year teacher.

So that was a very important amendment we added
with the support of the American Federation of Teachers, who is
a very strong advocate and supporter of this bill.

And, So that's just another component of the legislation
that I think is an important part of the puzzle for us.

SENATOR RUIZ: Thank you, Senator.

SENATOR JOHNSTON: You bet. Thanks for having me.

SENATOR RUIZ: Next I would like to invite
Daniel Weisberg, Vice President of the New Teacher Project.

DANIEL WEISBERG: Thank you very much, Madam Chair,
Senators, ladies and gentlemen; good morning. My name is
Daniel Weisberg; I’m a vice president of Policy and General Counsel at the New Teacher Project. By way of introduction about our organization, we are a nonprofit, national nonprofit founded by teachers about 13 years ago. We recruit, train, hire, certify teachers across the country and do policy work identifying the obstacles to teacher effectiveness and closing the achievement gap and recommending solutions to overcoming those obstacles.

I also want to commend you, Madam Chair, and members of the Committee for taking on this difficult, sometimes controversial issue, because it is, as Senator Johnston testified, one that is crucial if we’re going to solve the problems that all of us want to solve and improve the outcomes for our kids.

What I had hoped to do this morning is, very briefly give you some data that I hope you’ll find to be valuable as you tackle this issue. So first of all, a little bit of data about the -- the problem. New Jersey, as a state, faces the same sort of issues viés a viés the outcomes we’re obtaining for our high need kids, for our kids of color, for our immigrant kids, for our poor kids versus their peers.

And you can say -- you can see through this data that's up on the screen, but all of you Senators should have hard copies of this. If you would prefer, it’s probably easier for you to see the hard copy that's on -- on slide two.

You can see that the gaps, which are very, very serious, and the outcomes between these two groups of our children are for eighth grade worse in New Jersey than the national average. And the national average is alarming, to say the least.

There are states which, overall, get results that are about the same as New Jersey that do a better job at this time of reducing the achievement gap.

So in Delaware, Massachusetts, Colorado, Senator Johnston's state, all do somewhat better.

So we’ve got-- We face the same challenges here we face across the country, but I think it's worth noting that these challenges definitely do exist here in the State of New Jersey.

As Senator Johnston testified, we know what the solution is, and this is no small thing. We know that effective teachers and effective principals really can solve this very, very dramatic problem.

So here’s a slide just giving you some graphics from a study that was done several years ago in Texas, but there have been many. You take a group of 3rd graders who are at about an average level and you analyze their performance 3 years later after 5th grade, you look at the kids from that group that had 3 effective teachers in a row, they're in the 77 percentile.

These are kids we know statistically are poised for success, not just in middle school, but in high school. They're very likely -- at the end of the fifth grade, we can predict that they are going to graduate on time, their life outcomes are going to be better, their earning capacity is going to be higher.

You look at that same group of kids that have the same starting point and look at the kids who had 3 ineffective teachers in a row, they wind up at the end of 5th grade in the 27 percentile.

And these, unfortunately, are the kids who are deep in remediation...
Those of you who have been in the classroom, been in schools, you know these are the kids who are going to get to ninth grade, they're going to be several years behind, they are going to fail some classes and they're going to drop out, basically never to be heard from again.

The big variable there was teachers. The teachers that got in front of the classroom. So this is a critical issue.

You-- We studied the issue that the Committee is dealing with here. We released a study last year. We started the study just looking at an issue that everybody's talked about for a long, long time -- literally decades. You can find New York Times articles about this issue going back literally to the 1930s, and they don't -- the debate doesn't look that different then than it does now. Why is it that we have so few dismissals of teachers?

So what we did is we went out and talked to the teachers themselves. We surveyed over 15,000 teachers in 12 districts, in 4 states across the country, very diverse set of states and districts, rural districts, suburban districts, big urban districts like Chicago, very strong union districts, non-collective bargaining districts, districts that have very different evaluation systems. And after surveying 15,000 teachers, looking at 46,000 personnel records, surveying over 2000 principals in these very diverse places, what we found is that they all suffered from basically the same problem.

Virtually, all teachers -- and I'll show you a little data on this -- were rated good or great -- virtually all of them. It didn't matter if you were new, if you were a veteran, what school you're teaching in, if the kids were succeeding, if the kids were failing: you're being told on your evaluation you're good or great.

What we found from this is that the truly excellent teachers -- and we know in every district those teachers exist -- who are getting incredible results for their kids year after year, their performance is hidden, because everybody is told that they're good or great. So how do you know who the great eighth grade math teachers are? And teachers and principals are very frustrated with this. We heard from them.

Professional development -- totally inadequate.

One of the things that we would all expect as professionals is for our bosses to tell us, what are we doing well? What are we not doing well? What can we do to get better? Even if we're doing a great job, we want to know what we can do to improve. Teachers are not getting this information. This is what they're telling us.

Novice teachers -- those of you in the classroom tell me, as Senator Johnston did, your first couple of years it's very difficult. You're trying to get your sea legs, you're trying to figure out your craft, you need particular help. Well, those novice teachers are being told right from the get-go they're good, they're great, and they are not getting the help they need to develop their performance.
And then, lastly, but certainly not least, poor performance goes unaddressed. And we found a couple of things in surveying teachers and administrators. One issue that I think we settled fairly conclusively is, this is a problem. You will talk to some district administrators, to other folks who will tell you, you don't really have an issue with poor performers in our schools. Anybody who is not doing the job, either they don't get tenure or the -- somebody has a tough conversation with them and they're moved out.

Well, we know this not to be true after this study. How do we know? Because the people working in the schools with our kids, and I'll show you some data on this, told us that there is poor performance in their schools. And, again, they're quite frustrated about it.

We got literally tens of thousands of comments. This is one of the remarkable things of doing the study: it was clear to us that teachers and administrators, people working in the schools, were hungry to talk to us about this issue.

We were worried that when we gave out the survey, teachers are very, very busy people, and the administrators are very, very busy people, maybe a lot of them wouldn't take it. Not only did they take the survey, they gave us tens of thousands -- if you look on slide six --of these sorts of comments. This from a teacher who happens to teach in Akron, Ohio. "Poorly performing teachers are rated at the same level as the rest of us. This infuriates those of us who do a good job."

Which makes a lot of sense. If you look on slide seven, this is what I was talking about before: everybody, virtually everybody being rated good or great. So in Chicago, public schools are a very large district. They're the third largest district in the country; 94 percent of teachers are rated superior or excellent, and almost none are rated unsatisfactory in a district where the graduation rate hovers somewhere around 50 percent.

Even in schools that are doing a very poor job -- if you look on slide nine, they're doing a very poor job with our kids, not just having one bad year, but year after year, teachers and administrators are being told through the evaluation system that they're doing a great job. So we have this terrible disparity between the outcomes of our kids and the outcomes of evaluation systems, and nobody thinks that that's a good thing.

So if you flip ahead to slide 17, here's what I was referring to before. Teachers and principals generally agree that there are lots of poor performers in our schools.

So again, if you look at Chicago, when we asked them are there tenures -- we weren't talking about novice here, because we understand that novices generally are going to have a tougher time then veterans in the classroom -- are there tenured or non-probationary teachers in your school who deliver poor instruction?
And Chicago is an example, 58 percent of teachers said yes, 85 percent of principals said yes. When you asked administrators about the percentages, what percentage of veteran teachers are delivering poor instruction? Just as an example, in Chicago, they said about seven and a half percent.

So as the representative of the New Jersey Department of Education said, I don't think that anybody would claim that this category encompasses the majority of teachers, but it's a significant percentage. And if you go back to that study that I cited earlier, the impact of ineffective teachers on kids, and in particular on high need kids, is very, very serious.

To that point, we are actually able to disaggregate the data based on the percentage of poor kids in the school. And this was kind of heartbreaking because -- what we saw from the educators in these schools is, there was a positive correlation between the percentage of poor kids and the percentage of ineffective educators, at least according to the perception of the principals and the teachers in the school.

So we have, at least according to the people on the ground, we have a bigger problem here in high-need schools.

Another piece of data that might be counterintuitive, maybe unexpected for some: we asked teachers and principals, is dismissing poorly performing teachers important? Is it a problem we should be focusing on?

And in overwhelming percentages, both teachers and principals, said yes. They -- the 68 percent of teachers, 91 percent of principals strongly agreed, or agreed that dismissing poorly performing -- again, tenured teachers, not talking about novices here -- tenured teachers is an important part of maintaining a high-quality teaching staff.

So the level of agreement across our practitioners out there is striking.

SENATOR WHELAN: Madam Chair.

SENATOR RUIZ: Senator Whelan.

SENATOR WHELAN: This is very interesting and informative information.

You have 91 percent of principals agreeing that teachers who are doing a lousy job should be dismissed. Which, on the face it, we should all agree with that.

But then you have 94 percent of teachers being evaluated most frequently by principals as excellent. There is a disconnect there.

How do we -- What do we do about that, or how do we do something about that?

MR. WEISBERG: Yes. No, Senator, it's a tremendous point. That's right. I mean, it's hard to say, you know, we shouldn't use the B word, we shouldn't use the blame word at all, but you certainly can't blame teachers for the fact that, you know, 90-plus percent of them are getting these evaluations which don't help them improve and telling them they're good or great
just to give you a preview, Senator, is, we need a system
that's fair and credible to teachers, to principals, to
parents, to district officials, to elected officials, that
tells us who is doing a great job; who is going a good job;
who is doing a fair job; who is doing a poor job.
I mean, that will-- I think that's the lynchpin
to everything else that we want to do to retain our best
teachers, to make sure that our poorest kids, our kids who
are in the highest risk category getting great
way the chronically poorly performing teachers. You cannot do that
without the underpinning of a system that people believe in
that tells you who's performing at what levels.
But I'll get to that and I would welcome any
questions that you have, Senators, as we go -- as we go through
it.

Just to throw another piece of data at you, and I
think Senator Whelan just made this point, very few
dismissals are happening across any of these districts.
Again, in non-collective bargaining districts,
rural districts, suburban districts, urban districts -- when
you actually ask, you have this terrible distinction between
the educator saying that there were some colleagues that
needed to go, and then looking at the number of dismissals,
and it's almost non-existent. Most districts dismissed no
tenured teachers -- zero -- for performance. The ones that did --
like Chicago -- it was a negligible, negligible number. And I
think you got some of that -- I don't claim to have any
knowledge about this in the State of New Jersey, but it
sounds like you have similar statistics here based on the
testimony of the New Jersey Department of Education.
You know, there is some cause for hope.
You heard a lot of testimony about process here in New Jersey.
Madam Chair, I know that's something you're
interested in and the Committee is interested in. It's a very
difficult thing to try to fix this issue just by fixing the
tenure process.

So here on this slide, slide 21 we have a quote from
the president of the American Federation of Teachers, Randi
Weingarten, who I think said something that makes a tremendous
amount of sense, that due process shouldn't become glacial
process. Due process shouldn't take a tremendous amount of time.
If you look -- here is a case study from New York
City, one that I happen to know of quite well, a teacher who, by
all accounts, including, by the way, the account of a peer evaluator
who did not work for the Department of Education in New York
City, did not work for the principal, who was totally objective, found
this particular teacher to be unsatisfactory in spite of that.
This case cost $230,000, took over 40 separate
hearing days, and lasted years.
So we had a teacher who was dragging kids backwards year after year. The principal had, in this case, done the right thing and evaluated that teacher as being unsatisfactory, called in a peer evaluator who also found that teacher to be unsatisfactory, and then yet at the end of the day we had a $230,000 bill for one teacher in a particular school, and it took years to remove her, and hearing day after hearing day.

So the process is important, but it's, right now, way off from where we need it to be to serve the interest of kids.

In terms of the global scope of this problem, this was an interesting study on slide 22. If you look at where we rank against our international competitors now -- and we have been leapfrogged as all of you know, year after year by international competitors -- we're 29th of 41 in math achievement based on 2003 data, and the 2009 data is no different. If all you did was swap out the bottom 6 to 10 percent of performers of teachers and not put superstars in there, but replaced them with average teachers, we would jump from 29 to 7 in the world in math performance which, by the way, is where Canada is right now.

So solutions. Let's talk for a couple of minutes about solutions.

What do we recommend? We recommend, as I was saying to Senator Whelan earlier, a fair, credible performance evaluation system that tells us whose grade is good, who's fair and who's poor, mainly based on the results that teachers are able to obtain with their -- with their kids.

In order to make that a serious, meaningful system, you have to invest heavily in training administrators. It's not going to be a credible system if administrators don't know or don't feel confident in what they're doing. You have to hold administrators -- and as one of the features of the bill that Senator Johnston talked about, which I think is most interesting, that holds principals accountable for their ability to develop their teachers and to retain their best -- it has to matter.

You can create a great performance evaluation system, and if it doesn't matter for high-stakes decisions around promotion, around pay, around layoff and displacement and around retention, then it's going to die on the vine. Nobody is going to invest the time they need to invest if the outcome doesn't matter. And you do have to do something about that small but critical percentage of teachers who, year after year, are doing a poor job and dragging our kids backwards.

We are very pleased to see that across the spectrum, the president of the AFT, the president of the NEA, Secretary Duncan seem to welcome both the data, the conclusions and the recommendations.

And we have seen a fair amount of legislative progress -- including in Colorado -- you just heard from Senator Johnston -- but in states that encompass one in four of the students in the country, the legislature -- the legislature has gone and changed the laws to try to improve
teacher evaluation. So this is something that can be done. And, then, finally, I want to give you a couple of case studies in New Haven, Connecticut, not very far away from here the -- the local union and the district got together, negotiated a new evaluation, a performance evaluation system. All the information is on the website. It's being implemented in New Haven this year designed to do exactly what I talked about, have a system that, in a fair and reliable way, distinguishes great from good, good from fair, fair from poor, but is going to be aligned to student outcomes.

So that terrible slide that I showed you where -- about schools with kids that are doing poorly year after year, but all the adults are being told that they're doing a good job -- New Haven is addressing that by saying, our teacher evaluations and our principal evaluations are going to align to student outcomes. In Washington, D.C. the same thing. And they're a little bit further ahead than New Haven because they have implemented this system now in the second year, and they are getting, they are able to distinguish in Washington, D.C. between great, good, fair and poor. There's a very clear rubric; student outcomes are a part of it.

It's very clear what the consequences are. There are major rewards for highly effective teachers -- major rewards, significant bonuses in salary increases and abilities to take on teacher/leader positions. If you're minimally effective you do have a period of time to improve your performance. But if you can't improve, then you're going to be exited. And if you're ineffective, you're going to be exited from the system.

And, finally, in New York City on the issue of conferring tenure -- which may not be the point of focus here, but it's very important -- New York City was able to put a lot of attention to this issue and take it from a system where literally 99.5 percent of teachers in New York City -- very large district, 7000 teachers, 8000 teachers, each year come up for tenure in New York City, 99.5 percent of those teachers would be given tenure by default. Just given it for being in the classroom and showing up for another year.

They have now put in pretty rigorous systems around that -- both support for principals, support for teachers, clear standards -- and that has moved to a situation where now about 11 percent of teachers who are coming up for tenure in New York City are either being denied because they have been given documented notice that they're doing a poor job, or they're getting extended for another year.

So this is an issue where we actually -- there are districts, there are states that are making clear, concrete progress. They're doing it by building consensus and focusing on the practicalities of the solution. Thank you very much, and I would be happy to take any questions, Madam Chair.

SENATOR RUIZ: I think Senator Whelan had a question. I'm not sure if it was answered during the rest of
SENATOR WHELAN: You covered it very thoroughly. Thank you.

SENATOR RUIZ: And what I-- Senator Kean.

SENATOR KEAN: Thank you, Madam Chair.

And it was an extraordinary presentation, and I thought it was very good in tandem with the prior conversation we had with the Senator from Colorado.

Obviously, Arne Duncan and the President started the conversation and had a very robust conversation regarding innovation standards, efforts going forward, and we had a couple of rounds. In your analysis, is the Federal DOE going to continue on the type of incentive process -- continual driving of standards?

MR. WEISBERG: Every indication is that this is a path that the president and secretary are going to continue. Obviously, Congress will have something to say about the extent to which these programs are funded, but it's very clear that the four assurance areas, which have been at the centerpiece of all the programs coming out of the Department of Ed under the Obama Administration are not going to change. And the key is about educator effectiveness.

So I think-- I have a very high degree of confidence that the federal government will continue to support and fund efforts to improve effectiveness through better evaluation, through rewards and consequences.

SENATOR KEAN: If I may, this may be-- If you can get back to me in writing when you find this, who are the -- and this is something else, who are you -- you said the great thinkers of reform, if you're looking to-- Who to read on this? Who is it that comes to mind?

MR. WEISBERG: Well, I think a number of people. You just heard from one of them, and I'm not saying that because he happened to be testifying here today -- but both from a substitutive point of view, Senator Johnston is a leading thinker in this area, and also for -- from the legislative point of view, from the dynamics of how you actually get something done. That was quite an achievement in Colorado. So I would certainly point to him.

I think Randi Weingarten, the president of the American Federation of Teachers, has done some good thinking and has been constructive in many areas. The AFT was a partner in the Washington, D.C. contract that allowed for a lot of the progress that talked about -- I think that Joel Klein, who is about to step down as chancellor in New York City, and full disclosure, I worked for him for six years, so you can take that with whatever grain of salt you wish, is certainly an important thinker. And there are a number of state superintendents who have made tremendous strides in this issue. One is Dwight Jones, who is actually just stepping down to take the superintendent job in Las Vegas from Colorado -- Paul Pasterak in Louisiana, I think has been a courageous leader on this issue; Deborah Gist from Rhode Island is another state chief who I think has made some tremendous strides in this issue. There are others, and I'm happy to talk about it, but the good news is, that list, Senator, is a much longer list now then I would have been
able to give you even two years ago.

SENATOR KEAN: Thank you.

Thank you, Madam Chair.

SENATOR RUIZ: You gave us a lot of

information, and I would imagine, that as we

hear everyone who comes up to give testimony, we're going to

hear elements that will be echoed time and time again.

And so we recognize what the significant

things of importance are, and it's just a matter of how we're all
going to get there on the same page.

So I want to thank you on behalf of this

Committee for providing this information, and I know that I

will be leaning on you in future conversations as I move

forward to develop a strategic plan for this state.

MR. WEISBERG: Thank you very much, Madam Chair.

SENATOR RUIZ: Thank you very much. Thank

you.

MR. WEISBERG: Thank you. And please feel free to
call on me for whatever support I can provide.

SENATOR RUIZ: Thank you.

Next I'd like to welcome President Barbara

Keshishian, and from the New Jersey Education Association,

Mr. Vince Giordano and Michael Cohan.

Good morning.

BARBARA A. KESHISHIAN: Good morning, Senator.

VINCENT E. GIORDANO: Good morning.

MS. KESHISHIAN: And good morning to everyone,

and thank you very much for this opportunity to testify
today on this issue -- an issue, of course, that is at the

core of what NJEA believes in, and that is the importance

of having an excellent teacher in every classroom.

Now, let me begin by saying that New Jersey

already does an excellent job in this area. Our teachers

are by far among the finest anywhere, because our standards

and our expectations are among the highest. Despite the

picture painted by some public education detractors, our

teachers do an outstanding job, and that is reflected in the

success of our public schools. And that did not happen by

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accident.

It happened because we have a system in place that

helps ensure that our teachers are well trained, that they

are capable, and that they are successful. New Jersey's

Professional Standards for Teachers are high standards, and

indeed as they need to be. And teachers spend their entire

careers living up to those standards.

It begins with the training that our teachers

receive before they ever step into a classroom of their own; NJEA supports high

standards for entry into the

profession, including New Jersey's requirement that teacher

preparation programs meet or exceed the standards of the

National Council for Accreditation of Teacher Evaluation, or

NCATE.

We have consistently opposed attempts by the

Department of Education to lower the GPA requirements for
That commitment to quality continues with a rigorous evaluation system for both tenured and non-tenured teachers. Every teacher in New Jersey participates in a minimum of 12 evaluations and conferences before receiving tenure. And every teacher, tenured or not, has both regular evaluations and ongoing targeted professional development. In fact, NJEA helped to craft this state’s professional development requirements.

A strong framework is in place to ensure that the teachers who enter the system are exceptional, and that those who remain are the best of the best. In instances where a teacher is not living up to those standards and efforts to improve his or her performance are not successful, the system allows for the teacher to be removed.

During the first three years of employment in a district, removal requires nothing more than a determination by the district that a teacher’s performance does not merit continued employment. Districts have very broad discretion in those cases.

Beginning in the fourth year of employment, when a teacher has earned tenure, the district must show just cause in order to dismiss that teacher. And that certainly is only fair. The tenure statute provides the criteria for bringing charges. They are inefficiency, incapacity, conduct unbecoming or other just cause.

If a district believes a tenured teacher’s performance is unacceptable and cannot be improved through remediation or professional development, that district has the option to bring tenure charges under the law.

That is the system that exists, and it has helped New Jersey build an excellent public school system staffed by excellent teachers. But while the system is, in large measure, and has worked, we believe that it could be improved.

First, the state should mandate and fund mentoring for teachers during the first two years of their careers. Guidance from an experienced, accomplished peer is always invaluable to teachers beginning their professional careers. Such mentoring, alongside the current evaluation process, would help new teachers improve their skills and practice, and would also help lower the burnout and resulting turnover that we see among early-career teachers.

Second, we believe the process for dismissing a tenured teacher can be made more efficient and less costly without sacrificing the fairness standards that protect both teachers and our schools from unwarranted political interference in employment decisions.

We propose taking tenure cases out of the court system and putting them into the hands of arbitrators. Under our proposal, if a district believes that a teacher should be removed due to poor performance, it would be able to move quickly, and at minimal cost, providing it
was able to demonstrate that the removal was justified on
the grounds of inefficiency, incapacity, conduct unbecoming
or other just cause.
In effect, our proposal takes away the argument
that tenure removals are time or cost prohibitive and leaves
it to the districts to demonstrate the removal is justified
for any of those reasons.
A critical element of making this reform work,
however, will be to have a strong evaluation system in
place, one that looks at multiple measures of both student
achievement and teacher effectiveness. It is equally
critical that the supervisors and the administrators charged
with conducting these evaluations be well trained in the
assessment frameworks and standards of performance that
should be the foundation of this evaluation system.
We, of course, are very concerned with some
proposals that we have heard discussed that would place
undue weight on student test scores, making them the primary
component of evaluation.
Ladies and gentlemen, the research on that issue
is clear: that is the wrong way to approach teacher
evaluation. It is both unreliable and likely to lead to
negative educational outcomes for students.
I urge this Committee, as you consider the issues,
including teacher preparation, mentoring, and tenure, to keep
in mind the importance of having a comprehensive,
research-based approach to teacher evaluation so that we
make critical decisions based on the best information, not
just on the information that is the easiest to find.
Thank you very much for your time, and we'll be
happy to take any questions that you have.
MR. GIORDANO: Yes, Senator, if I may? On the tenure
dismissal component of it -- at least, right?
I've been around awhile -- some think
too long -- but there's always been an undercurrent, sometimes
on the surface -- concern about the tenure process and what some
people don't like about it, and the general concerns we
have always heard are, that it takes too long and that it is
too costly. And I think I heard some of those references
even here earlier today.
If you follow the litany of steps in the
process that the Department of Education representative went
through earlier in the presentation, I was trying to keep a
quick scorecard it's no wonder with all those handoffs,
if they were the New York Giants or Jets, they wouldn't win a
lot of games because there's too many places for fumbles.
It goes from one party to the other, then it goes back to the
same party, and then there is a decision, then there's an appeal.
So that whole process, the reason we're seeking
to put it into arbitration is -- we think if you put this in
the hands of one person, it goes to the Commissioner who
determines that there are some grounds to have a further
investigation, give it to a trained arbitrator who deals
with employment matters as a regular part of their expertise,
and let that arbitrator conduct a timely hearing.
And we would suggest-- If we were to suggest a bill -- make a hearing 60 days, there will always be some exceptions and some extensions. It's the nature of the process. And then put a time limit in for a decision, you know, 30 days or something to that effect, again, understanding there are going to be some areas of leeway.
The current process that I think upsets the public and upsets legislators and, frankly, concerns us is, that the process does take too long.
If a case takes 2 to 3 years, or what it currently averages, by the way, which is about -- between 9 and 12 months, that's too long from the point at which it was given to an Administrative Law Judge.

Our suggestion would be, give it to an arbitrator,
let that arbitrator conduct a quick and efficient hearing, and a fair hearing, render a decision and be done with it within a 60 to 90-day period of time.
And we would also suggest that we remove the current appeal steps in the process and we allow only that -- an arbitrator's decision is subject to appeal for the grounds set forth in the statute to (a) which is to indicate that the arbitrator's decision was rendered for improper reasons. And I don't know if you want to take time, but there are specific -- corruption, a lack of partiality,

misconduct that's seated to perfect the code that arbitrators function under.
And that would be the grounds for appeal.
We wouldn't have another whole set of appeal steps to take.
If those are not the major concerns, we have been given a lot of misdirection over a long period of time.
The other one that I hear, if I may add, it's a lifetime job guarantee. Well, of course it's not. Our members are not appointed to the United States Supreme Court, they're teaching in our public schools. So they don't have anything called lifetime protection.
And we've heard everybody say there is a process.
Whether that process is properly utilized today, I think this Committee should really zero in on and focus on.
And I don't know if the numbers of cases -- because they are not at a higher rate means that somebody is not doing their job or that the system is broken. Maybe most of our teachers are exceptional and outstanding teachers.
But if, for the moment for argument's sake, there are some who should be brought up on tenure charges, let's find a system which does not allow the Board of Administration to say, the reason we didn't take this tenure case is, it was -- it would be too expensive, several hundred thousand dollars, or it would take a year or two years. Let's find a system that cuts those costs.
I can answer part of your earlier question. Our cost-- If we represent a member in a tenure case, our legal fees are approximately $25,000 to represent a tenured teacher.
in a tenure case -- our attorney's fees. I have no idea --
SENATOR RUIZ: For one individual? For one
case?
MR. GIORDANO: Excuse me?
SENATOR RUIZ: For one case?
MR. GIORDANO: For one case, right.
I have no idea -- and those cases, by the way,
today, are taking somewhere closer to nine months. This --
from the point at which it is given to the Administrative
Law Judge.
This process that we would prefer would take something
closer to three months with some variation in terms of
extensions. If people get extensions there is no way to tell
how much time. There are no time limits in the current ALJ
process. There's no time by which a decision necessarily has to
be rendered, because these exceptions are granted and the
number of days -- I totaled up here, I kind of lost track of how
long it takes.
SENATOR RUIZ: Can I --
MR. GIORDANO: It takes too long.
SENATOR RUIZ: Can I just, and it's not to --
MICHAEL P. COHAN: If I may? I looked at
last year -- the 2009 year -- with our attorney who handles
these matters, and all we have data for is our cases that
would involve our members. There were 26 or 27 tenure cases
that went to full hearing. There were something like 125 or 135
cases filed. As you heard, a lot of those are settled
along the way.
So is that-- What's your specific question now?
SENATOR RUIZ: How many were brought up
because of ineffectiveness?
MR. COHAN: A handful. I don't have an exact number,
but probably three or four of those were for the inefficiency --
SENATOR RUIZ: Inefficiency.
MR. COHAN: -- is technically the definition.
SENATOR RUIZ: And so then my question is --
because I think it's something that I should probably --
I'll start to ask all the practitioners across the board in
the state as to why is that number so small?
MR. GIORDANO: Hmm. You're going to have to ask
other people that to get a very specific answer, I think.
I think that in some instances people are not
aggressively pursuing the current tools they may have available
in terms of the evaluation processes that the state has in
place and that are in place in local districts.
I don't -- I can't answer your question. I mean, we certainly don't want more tenure cases from our perspective.

SENATOR RUIZ: I don't think anybody wants it, but I think that this Committee wants to put something in place, that we'll never see an ineffective or inefficient leader. Nobody is trying to develop something that will just pinpoint to that.

It's just-- When you just talk to people across the board, as well -- you shared that sentiment is that we don't understand why. And it could be because precisely what you have said -- perhaps people are not using, and I'll speak to the Committee members and to everyone -- while we were in the process of engaging practitioners and listening to them, in some districts it's very involving and time consuming in a way where deadlines have to be met at a certain time.

So it almost becomes, in a sense, cyclical in a sense. So I'm to evaluate; I'm supposed to evaluate you; right? I -- and -- there isn't that support mechanism in place to do so. I'm supposed to do it within a certain timeline. I guess if I -- if I file that late, then I also will get a bad evaluation from my top head. So it becomes this revolving kind of process because of the length, because of the time and because of, quite frankly, particularly in certain districts, the extraordinary responsibilities that individuals have to, you know, stand up for.

So it's just a question that I'll be asking of all of our practitioners moving forward throughout the hearing as to -- so that I can, kind of, hear through everyone's eyes as to why is it that they think it is what it is today.

MR. GIORDANO: Yes. Let me just add this. I think somewhat in defense of our school administrators and principals, it may be that there are just too many things that are expected of a school principal, that in terms of running a whole school and doing everything else that's involved and getting into the budgetary stuff and the work with the parents and everything else. And maybe we need some middle level of certified staff that would also be involved with the evaluation of teachers. As long as that person went through whatever the standards would be and the certification for being able to be a supervisor and do those evaluations, there may be some way to add some extra hands to the process.

The other thing I don't think you can escape here is that if districts are not taking more cases and there are cases to be taken, I think it's because I've heard over and over and over, it takes too long, or it's too expensive, so we'll just work it out some other way. That is not good.

We don't want that teacher in our ranks.
Nobody wants to be working next door to someone who is not carrying their load. It's no different in any other line of work, etc.

So we would welcome discussions in that regard. And, particularly, also on the evaluation area, we can't deal with the suggestions that were made by the gentleman from Colorado. In New Jersey, dealing with criteria and standards for what constitutes appropriate evaluation is an illegal subject. So it is not a term and condition which is negotiable as apparently it may be in that state. You can only negotiate procedural steps in New Jersey.

So someone would have to look at the law and say, if we really want to do this, and we're not just doing sound bites, we need to also say, we're going to open the door there; we're going to welcome in the teaching profession and make them a part of that whole process. Right now it's something that we can't even legally do in a negotiation setting.

MR. COHAN: Madam Chair, if I might, just to extend the point being made about effective evaluation. I would make the case for you and your colleagues on the Committee and all of your colleagues in the Legislature, that one of the things that you would do well to insist upon is the application of existing statutes and -- Administrative Code that describe effective teaching and effective operation in schools, because there is already existing requirements for mentoring and, frankly, it's a paper tiger.

Every new teacher is supposed to be mentored for their first year. And there's very often a mentor assigned, but districts don't support the kinds of activities that are going to make that -- that interaction and that experience meaningful for a novice teacher.

There's also a requirement for ongoing professional development. And the code requires that there be conversations at the school level among teachers about what they do; how they do it; and why they do it on behalf of instruction for kids. It's very, very clear that the Professional Development Standards and Code ask teachers to plan their own professional learning at the school level and submit a plan for that professional development to the district, which eventually is approved at the county level; and it is supposed to be targeted by virtue of the language in the Professional Development Standards to advance student learning. That's the language in every single Professional Development Standard.

So these are the procedures that exist, and yet I can tell you, I'm going to Sussex County this afternoon to work with a group of educators, and their frustration, along with colleagues all over the state -- because I've been in many other places -- their frustration is that they're not supported by the school district, by their school administration or just by the culture of the school -- that kind of professional learning is not valued in a way
that can help make a difference.

So in order for us to make certain for all of
these frameworks that exist in code and statute already, we
need to make sure that there is leadership, and we would
provide that leadership and try to do so all the time. We
need to make sure that there’s resource support.

As difficult as the economic conditions may be
right now, what would be most valuable is to make certain
that we direct the most important resources to the most
important outcomes.

And, then, finally, we’ve heard before from
previous speakers about how important teachers are in the
classroom, in the school, to enhance student outcomes.
And we would certainly acknowledge that. The impact
of educators in schools are the most important in school
factor. But we cannot discount community factors; we cannot
discount the socioeconomic impact that communities have
on children and their ability to learn; and we cannot discount
parental involvement. All of those things come together to
make for a successful and effective school. There’s no secret
about what makes for an effective school. We just need to make
sure that all of those factors are given attention, support,
and that we all work together to try to make sure that we
advance that cause.

SENATOR RUIZ: Senator Kean.
SENATOR KEAN: Thank you. Thank you, Madam Chair.

And through you -- is it your testimony that today's
current system of evaluation of successful or failing teachers,
then, is not working?

MS. KESHISHIAN: Are you asking for our assessment
of the current evaluation system?

SENATOR KEAN: Well, given Mr. Giordano’s comments
moments ago when we said why -- in response to the Chairwoman’s
comments, the -- announces why there was only one or six individuals
brought up for ineffective -- were inefficient learning, and
testimony presented before this Committee was such that the
structures in place -- that you can't even identify individuals,
much less bring analysis before any boards or commissions.

SENATOR RUIZ: This was your comment, too.

SENATOR KEAN: So the question that I got for you
is, given that testimony, are -- do we need to completely
reevaluate the analysis so we know who is doing the job well
and not well on behalf of our children?

MR. GIORDANO: Yes. Since you referenced it to
me, Senator, I think we have a lot of the pieces that are
necessary already in place in terms of doing the evaluation of
teaching staff that is required.

I think we don't do that as efficiently, and we
don't do that as well as we might all do that. I don't think
that we need to go out and invent or find new ways to evaluate
teaching staff. There are volumes of code requirements for
evaluation, there are local procedures for evaluation.

Barbara referenced the fact that
non-tenure teachers, in particular, are subject to an extensive and exhaustive evaluation process. I think, basically, the fact that it may not be as -- it may not be implemented and utilized in as aggressive a way in terms of assisting teachers and then subsequently, if necessary, identifying deficiencies would be the problem.

"I'm sure there may be some things that could be added to the current system that would enhance it. Unfortunately, we have not been asked to participate in that state group that is looking at evaluation, but I hope that they do look at some of those things and we'll have an open mind and an open ear, certainly, from NJEA's point of view to -- to engage in meaningful and productive conversation."

"I think that's the best answer I can give you."

"SENATOR KEAN: If -- in -- but in these standards, you're saying some version of student performance."

"MR. COHAN: Senator, I think that the key question here is, what are those criteria that will be used for the assessment? And then, who's going to be the user of that data? Because assessment of learning is most valuable when it's in the hand of practitioners."

"When practitioners can assess the outcomes of their efforts, sit down in a reflective way, perhaps talk with colleagues about the array of outcomes that have taken place across a grade level, perhaps, and talk about their classroom practice, they can start to understand what might happen differently on behalf of particular students."

"But if you're talking about -- and I always bristle at this, I've been in the profession for over 30 years -- and I always bristle at the assumptions that are made when test scores are published in a newspaper. That's not the purpose of testing."
The purpose of testing is to understand learning outcomes. And the people that are -- that need to understand the learning outcomes, most importantly, are the classroom practitioners.

So I -- and what the research suggests is, that policy makers such as yourselves, should be very cautious about implementing a system that would solely use test outcomes as the indicator of what's happening in a classroom. As I point out before, there's lots of other factors.

SENATOR KEAN: I don't think anybody on this, if I may be so direct -- I don't think anybody on this Panel is saying that classroom or student performance is the only indicator, but given the Colorado analysis where teachers are involved in both the hiring -- in all aspects of the hiring decision according to the testimony previously put in having student performance, because it's one of the metrics by which you measure success, why isn't that not part of the analysis? Why shouldn't it be part of the analysis?

MS. KESHISHIAN: We would -- Senator, if I may? We would have no problem with it being part of multiple measures that would go towards a teacher's evaluation. It already is part of the teacher's evaluation. We want there to be multiple measures not based upon evaluating a teacher attached to a test score. If it is to become part of the mix, along with the other things that are important in teaching, then we have no problem with that, and we certainly would like the opportunity to be able to sit down and have a discussion about what we believe are the best criteria to go into evaluation for teachers. But we're obviously not being given that opportunity to sit on the nine-member panel that's going to determine teacher evaluation in the state.

SENATOR KEAN: One final question on --
SENATOR RUIZ: I just wanted to jump in.
SENATOR KEAN: Okay. I'm sorry. Go ahead, Madam Chair.

It's your prerogative.

SENATOR RUIZ: I think that we would all say that the measure of progress will not be just left alone to a test score. A teacher who's in a classroom that takes a student body who, perhaps, is two years behind grade level and brings them to grade level and beyond -- the progress that individual has made in the class undoubtedly should be measured, because the student now is where they should be and above in a time frame that's expected. There is shown great leadership in that classroom.

So I think we all welcome that.

But, of course, there have to be different variables that get addressed in the whole equation, I guess, at the end, which is what is Senator Kean's point.

SENATOR KEAN: Yes. Thank you.

And one other issue that I've got is, you stated earlier in your testimony that you have stood up against
lowering GPA standards for entering -- individuals entering
the teaching profession.

MS. KESHISHIAN: That's correct.

SENATOR KEAN: But is your-- Aside from that GPA
level, do you think the various standards of the teaching
profession are too high right now, meaning, that individuals
who go into a variety of professions, whether it be professional
football players, whether it be stockbrokers, whether it be a
whole host of other professions that have interactions and
significant -- and career paths, you don't have to enter into
specific careers. I mean or specific educational achievements
to make those -- to enter those careers -- and if so this is
an issue that the State's discussed over the last several
decades -- alternate route may be another way to phrase that--
Would you be willing to engage in a conversation on those,
where you're bringing an individual into a teaching profession,
and maybe they were doing another career for two or three or four
years, and then they say, "I just can't take time out of my career
for a year to do -- to pursue a master's at this juncture," but a
more rigorous alternate route entering the process so that
individuals who are economists or anything else can enter
into the public education teaching profession with
appropriate supervision over time?

0085

MS. KESHISHIAN: Well, I'm assuming that you know
that we already do have an alternate route --
SENATOR KEAN: Yes.

MS. KESHISHIAN: -- available.
SENATOR KEAN: Yes.

MS. KESHISHIAN: So what is it that you're --
SENATOR KEAN: So I'm asking, would you like
change -- would you support further -- will you be willing
to engage in conversations to make that a much more robust
alternate route?

MS. KESHISHIAN: Senator, we would be willing to
engage in any conversation involving anything dealing with
education.

SENATOR KEAN: Thank you. Thank, Madam Chair.

MR. GIORDANO: Madam Chair, can I -- if you would be
patient with me. Just on the use of test scores, I want to
be clear, because you -- you, kind of, spoke for the whole
panel up there and I want to speak to this panel on this
same point. We have never objected to the use of student
performance data, test scores, even standardized test scores,
as part of the overall assessment that would be made about a
teacher's performance. The current code allows for that.
We have never sought to change that or lobby against that,
et cetera.

Where we do find some difficulty is where someone
0086
just grabs out of the air a number like 50 or 51 percent
with no research, no data, no basis upon which that
magically becomes the amount of use of test scores and
student data that should determine a teacher's evaluation.
We think that is better left to the practitioners
and the people in the field to determine in their
circumstances and their district and their environment -- how
-- the weight that they want to put on the test scores versus
the classroom activities versus what the senator mentioned
earlier about bringing that class forward, et cetera,
to come up with any arbitrary number. I'll go this far,
maybe the number should be 60 percent, okay. Who made it 50
or 51 percent? That's where we get into our differences of
opinion, not over whether that is some -- not part of the
overall thing that somebody ought to look at. But trying to
quantify that specifically -- and like somebody did a scientific
study is where we part company on that.
I want just to be clear on that, NJEA's point of view.
Thank you.

SENATOR RUIZ: Senator Allen.
SENATOR ALLEN: Thank you.
I appreciate your coming before us with some ideas on
how to make some changes, I think that's excellent. And I hear you
having said a number of times that you've not been invited to be part of an evaluation process. I'd like to invite you to give us,
on this panel, exactly what you think that process might be moving forward.
We hear about teachers being -- so many of them being
told that they're excellent or just really, really good, and
most of them are, I'm convinced of it, but surely there are
some who are being told that they're excellent that aren't, and
that need that extra help or, perhaps, need to find another job.

How can we better evaluate so we know? And
how can we make sure that those really wonderful teachers
who are the ones that can be the great mentors for the new
teachers coming in who can, as the gentleman from Colorado,
I think, mentioned, show others, or do modules that can be looked at, or perhaps you even do that, I don't know.
But those sorts of things ring true for me as -- as a way to
get better by watching how somebody else does something.

So at the beginning of that long list of things was, would you (a) give us your list of how you think teachers should better be evaluated; and, secondly, comment on how we can better utilize the skills of the best teachers so that we can move other teachers into a higher plane?

MS. KESHISHIAN: We can certainly work on that for you, and perhaps be able to meet with either all of you or a smaller group, and we'd certainly be glad to discuss those things, certainly.

SENATOR ALLEN: That would be great. Thank you.
MR. GIORDANO: And we may be able to put something together at least to share with you and than have some further conversation. That's a terrific question.

MS. KESHISHIAN: And we appreciate the offer.
Thank you.

MR. GIORDANO: Thank you.
SENATOR RUIZ: Respectfully through the Chair, just all the information to disseminate to the
I want to thank you for engaging in the conversation, and not once, not the first time that we've had this, and I look forward to, as we start hearing from all the stakeholders, that as Senator Allen stated, that people are bringing about ideas and concepts. At the end of this process, I hope, I know that I will have a bill with grand -- with input and with very responsible measures of time and commitment, not with sound bites, that will take New Jersey to a level that will ensure that we have great leaders. And I know that, that's what everyone in this room wants.

Thank you.

MR. GIORDANO: Knowing you in your role and how you handle things, we are confident of that. Thank you very much.

SENATOR RUIZ: Thank you very much.

One question before you go, and maybe, Michael, this -- and perhaps later we can engage in this, with the -- the students who are coming out of our institutions, do you feel that they're -- they're coming out fully prepared, and do you have recommendations? Because I think this is-- We're looking at different slivers of the pie of public education reform. So we certainly recognize that all these variables have to go hand in hand to create success. Today, obviously, we're focusing on one thing. We have dynamic universities in the State of New Jersey that have been highlighted on a national note -- level for producing educational leaders. In the NJEA's estimation, do you think that they're at that pre-process, not after, because we're talking about professional development and resources, are we on a curriculum level -- both the four years and masters and doctorates -- where we should be to ensure that we're producing the appropriate individuals; if you can answer it?

MR. COHAN: Well, I would only point out that I think the same thing can be said for teacher preparation programs in higher ed institutions as could be said for school districts across the state, K-12 school districts. There are some that have a deeper commitment and a greater focus on the outcomes of their program, and others that certainly have teacher preparation programs, but don't devote the same level of resources.

So the standards are the same. The standards for teachers are supposed to guide the pre-service education of all of the teacher programs. And I think that would bear some further discussion on the part of the Committee with the higher ed institutions, because we can certainly work together with them to make sure that when their candidates come into our schools with a strong mentoring program, that we're just enhancing and extending the kind of pre-service experience that they have.

SENATOR RUIZ: Senator Whelan.

SENATOR WHELAN: Just one quick question, and
I want to add my congratulations to (a) your being here; and, also frankly, you put something on the table in terms of really streamlining the tenure hearing process.

We made reference to the Colorado situation, and one of the realities now is, tenure is -- pardon the analogy, but it's life or death. Either you have it or you don't have it. You have a job or you don't have a job.

In Colorado it appears that you can be a tenured teacher. That's not the term they use, and you could slide back to the probationary status, and if you don't improve, you eventually are shown the door, but if you do improve, you can regain your tenured status, if you will -- is that something that should be part of the discussion as opposed to just as, sort of, either or, you know, you're in or you're out?

MR. GIORDANO: Senator, may I? A knee-jerk reaction to that is, it doesn't sound like a system that would work very well or that we would have great interest in it. It seems like people would, kind of, always be off balance somehow in terms of what their status.

But I would say this, and I was just asked this question on a radio show that I happened to find myself on, and that the other individual said, "Well, what about these five-year renewable contracts instead of the current tenure system?" And I said, "Well, right now you have an annual renewable contract, even when you get tenure." They don't -- the district does not have to continue that employment. They do have to go through a fair process to remove you.

So basically, you -- why would you go to a five-year renewable, when you have an annual renewable? If we're not happy with that teacher's work, and everyone is doing what they're supposed to do, and we have an evaluation system that everybody gets comfortable with, you have right now the ability to continue or not continue somebody's employment at -- not only at the end of each year, during the course of a year.

So I will give you the same answer. That doesn't seem to make sense to me that you go this -- go up to this point and then back up to here and then you go up to this point. It seems a little chaotic.

SENIOR WHELAN: Allow me follow up, Madam Chair, if I could.

And this is the first that I heard it, also --

MR. GIORDANO: Me, too.

SENIOR WHELAN: -- So I'm groping with it, you know.

Is that something that we should consider for new teachers, which is to say, you know, as we all acknowledge
who've been in the field, you know, the first year is -- particularly people aren't mentored properly or if they're having difficulty?
The school that I teach at is, 95 percent of the kids are on free lunch, So you know, it's a tough school. If you know -- so the first year is almost lost, the second year and the third year you get a new principal and so on; is that something that we should look at for someone who comes up on that third, the end of that third year? And we're not sure, but right now the decision at the end of that third year is either yes or no. Whereas, this model, and I'm just focused on the -- the end of the third year, is that something that maybe we want to think about in the context of that to say, okay, well, you know, we're not going to give you tenure, but we're not going to show you the door, we're going to give you another probationary year or two, whatever it might be.

MR. GIORDANO: I think if your question is, is that something that we should have further conversation about, it would be a kind of an extension of the current probationary period?

SENATOR WHELAN: Right.

MR. GIORDANO: I think we'd have an open mind to some conversation about that kind of a system, sure.

SENATOR WHELAN: Thank you, Madam Chair.

SENATOR RUIZ: Thank you.

MR. GIORDANO: Thank you.

SENATOR RUIZ: Next, I would like to invite Mr. Joe Del Grosso President of the Newark Teachers' Union. It's still morning; we’re four minutes out from approaching the afternoon -- welcome.

JOSEPH DEL GROSSO: Okay. I'll be brief. I heard, you know -- I concur with a lot of the testimony that was, you know, that was given, so I'm trying a different topic. My testimony this morning, first of all, I want to thank all of you for the opportunity to discuss this issue. And when we talked about great educational minds, I think we have some right here in New Jersey, also.

Senator Kean's father, Tom Kean, comes to mind, who was a great educator and a great educational governor.

My name is Joseph Del Grosso; I'm president of the Newark Teachers' Union, Local 481, AFL-CIO since 1995. Prior to being elected president, I was a teacher for 25 years. I represent the largest school district in the state, which has 5,000 members.

The issues that I find most pressing are student achievement and teacher assessment. The Newark Teachers' Union will recommend to this Committee a method with proven success for decades. I've been invited to testify on the teacher employment tenure and dismissal process, and what improvements can be made in the process whereby highly qualified teachers are rewarded, and those who repeatedly fail
students will seek other careers, because children are our most sacred and important asset to the future of America, and every classroom moment must be important if they are to succeed in this competitive world.

First, let me say, the teacher unions are not the problem. We act within the parameters of the law, and as established by the legislature.

Second, we do not hire teachers. We don't interview teachers for teaching positions, and we do not interview teacher applications. We don't see letters of recommendation, and we don't sit on screening committees or make recommendations for employment or tenure.

Just to tell you, when a teacher gets tenure, you don't even get a letter saying that you got tenure. So it may be a very important factor, but it's not treated like an important factor anywhere in -- that I know of, you know. Like I said, they don't even tell you, formally, that you have tenure.

In fact, we're not, in any way, shape or form involved in the employment process of our colleagues and peers. Only Boards of Education can bear that responsibility. Unfortunately, too often they do not bear the responsibility for hiring their friends, relatives, friends of their relatives, and the result of hiring -- and the results of that hiring is upon our children. Only we seem to bear the blame.

When lawyers seek employment in the private and public sector, they're screened by their peers. When doctors apply to hospitals for internship or positions in professional corporations, they are screened by their peers.

So I am suggesting that we have a peer review form of evaluation here in New Jersey. Peer review and assistance must exist for teachers at the initial stage of employment, during the intern stage, during the receipt of the tenure stage, and at the dismissal court stage.

The entire employment process of teachers must statutorily be reformed so that an evaluation process has equitable standards, which, if not achieved by a teacher and student, will result in a career change, either voluntary or through a due process procedure.

We, here in New Jersey, are not naive, and understand that there is partisan politics that does still exist in education. No good teacher wants to see a student lose out on education.

I propose you review what is nationally proven, and it is called the Toledo Plan, which was modeled on the medical profession training program.

This successful program has been in effect for 22 years, and statistics prove, like in every other profession, that peer assistance and peer contribution and
recommendations within the dismissal process have made
teachers more accountable and improved education for
students, and expedited the dismissal, and what I refer to
as a career change.

What is the Toledo Plan?
The Toledo Plan is a cooperative union/management
program of teacher evaluation and mentoring. It's present in
Toledo, it's in Rochester, New York, it's in New Haven, it's
in San Francisco, it's in many districts.

It's an effective teacher performance tool based
on peer assistance, coaching and evaluation.

The Intern Intervention Evaluation Program uses
outstanding, experienced teachers to train, evaluate
beginning teachers and to assist experienced teachers whose
skills are severely deficient.

The underlying assumption of this program was that
experienced teachers were in the best position to screen new
entrants into the profession.

Additionally, experienced teachers were identified
at being the most qualified to be consultants and mentors
for first-year teachers.

What are the goals of the intern program? One:
remove from the profession those first-year
teachers who can't meet the performance criteria even after
extensive mentoring.

Two: provide support and professional development
so that other intern-year teachers are able to build a
successful classroom career of their own.

Areas in which the interns are evaluated include:
teaching procedures, classroom management, knowledge of
subject, academic preparation -- which includes personal
characteristics and professional responsibility.

What is the difference between the intern program
and the intervention and how are teachers identified to be
placed in it?

The intern program is designed to provide
assistance and evaluation by experienced teachers,
consultants for first-year teachers, long-term subs and new
teachers. The intern consulting teacher and the intern work
cooperatively by establishing mutual goals on the strengths
and weaknesses of the intern.

The consulting teacher assists in the professional
development of the intern through support, advice and
guidance. And the consultant must ensure that the intern is
fully aware of all the performance standards that must be
met or exceeded.

The intervention program is designed to assist and
evaluate non-probationary teachers, three years and beyond,
who have been identified by school staff or principal as
performing in a way unsatisfactory, and that termination or
improvement is imperative.

Often, the difficulties that these teachers are
having involve classroom management or an inability to
present material clearly.
A consultant is assigned to identify teachers, and the goal of the intervention is to improve performance to an acceptable level. Both the principal or union committee may recommend that a teacher should be assigned to intervention. This identification process is designed as a check and balance to prevent or avoid the abuse of the system. Additionally, it assures consistency and fairness in the procedure.

Will the Toledo Plan improve the way teachers teach?

To date, we can see the outcomes, and I've provided some. Before the implementation of the plan, teachers were evaluated by the building principal. These traditional methods of teacher evaluation proved to be ineffective and burdensome. And I think that you heard that testimony, if there are only 10 teachers in the system that are not cutting it, then I guess we're all great at what we do. I don't share that view. I share the view that this evaluation system, a peer intervention system, would work better when teacher is looking at teacher to see who should remain in the profession.

In the Toledo Plan, I'm better extemporaneously -- the last five years of the program -- excluding 2009 and '10 -- there were 392 interns that were served, 33 interns were not renewed or terminated, veteran teachers, there were 13 in intervention, four of them had to leave the district. The goal -- you know, the goal of it is to -- is to move to a model that is akin to what happens in -- in the private sector. And anywhere in the private sector people will tell you -- business leaders, et cetera -- that probably ten percent of the working force are ineffective, okay. And I think teaching parallels with what happens in the business sector.

So if we go in with that, you'll see the statistics here that show that peer review brings that to about that number. Statistics surrounding the Toledo Plan concept evidenced that teachers have no problem in recommending non-employment to those who objectively should seek another career path. There is no shame in that you can't teach, you know. If I wasn't a teacher, I would go into politics.

With the adaptation of peer review, the Newark Teachers' Union should be open to using the first year of teaching as an internship year. After the satisfactory completion of that year, the teacher would then go into a tenure track and have an additional three years and a day to achieve tenure. Now, this would take, you know, legislative change and it would take support of universities.

What we see, problems in the--
largest city. In Newark, we have the most
teachers; we have the greatest student population. What we
see, we would have to collaborate as we do. We have parts
of this program in Newark now.

We have partnered with Seton Hall University over
the last three years. The union paid for the cost of this
program over the last three years, and the last year we got
some grant money that Seton Hall was able to get from the
Geraldine Dodge Foundation and other partners. And we began
the process of using Seton Hall to go into our schools and
mentor the new teachers as well as any teacher that was
rated unsatisfactory Seton Hall would go in and mentor
them; they would go to courses on a Saturday and they would
try to improve.

We had 92 teachers in that program last year --
veteran and new -- and we saved all but 12 of them; 12
were deemed to choose another career path. And we counsel
them and we tell them, there is no shame in the fact that
you can't teach. There is more shame in staying and trying
to remain a teacher than there is in admitting that you're
not very good at what you're doing, and you move on. And
that's what we want.

And collectively, we think tenure is not the most
significant problem. And you could even ask the Department
of Education, could they provide you with empirical data
that shows in what year teachers get the most tenure
charges? Is it in the beginning? Is it in mid career? Is
it at the end?

Our lawyer that's sitting to the left of me, Mr.
Liss, he has -- the most tenure cases because in
Newark, like I say, by the numbers we have the most
teachers. And he informed me that teachers at mid to the
end, you know, to senior teachers, are brought up. And I
understand that.

So that's where peer review would be a very
important focal point because, as this program went on in
Toledo and spread around the United States, they went
through with an initial process that was very difficult. It
was difficult for teachers to accept, and it was difficult,
you know, to implement. But once it was implemented,
teachers became very comfortable with the idea that other
teachers were going to be reviewed. And it made a
substantial difference.

EUGENE G. LISS, ESQ.: I would just like to say one point. I
have been in education since 1961, as a teacher for 10
years and as an attorney from 1971 to the present. Most
teachers who receive tenure charges, and -- and we
see these statistics in the paper all the time. Only three
teachers one year, two teachers another year are brought up
on charges of inefficiency.

I think if my colleagues who represent teachers
throughout the state were here, they would say that many
teachers who actually receive inefficiency charges,
after they speak to their unions or their associations or
their attorneys, they resign. They resign, they retire, they go into other careers. And you don't see those statistics.

But I would rest -- I would gather there were hundreds of teachers in the State of New Jersey last year who, upon receipt of tenure charges or had knowledge that tenure charges were going to be brought against them, either retired or resigned. And that's just the statistic that you don't hear. Don't buy into statistics that only two or three teachers a year.

MR. DEL GROSSO: No.

MR. LISS: Maybe it went to Trenton, maybe three or four went down to Trenton on inefficiency purposes, but many of these teachers who come to us, who are the legal counselors, we sit down with them. And many of them do leave the profession. And you don't hear that statistic.

So if a taxpayer is looking at it and looking at cost, there's your cost saver. And if educators are looking at it, you're asking educators to be accountable to themselves.

So let's -- we have to stop something. We can't say that we want to hold teachers accountable, but not give them the ability to sit on the committees that interview new teachers, to sit on the committees that screen them, and to be there to evaluate them.

If you want the accountability, we'll give you accountability, but it's time for management to turn the other cheek and say to themselves, that they need the teachers and the leadership of the teachers to be part of the parcel of the partnership.

I thank you.

Questions?

SENATOR RUIZ: Senator Allen.

SENATOR ALLEN: I have always been a strong believer that teachers and administrators need to work together very closely, more closely than we generally see.

MR. DEL GROSSO: Absolutely.

SENATOR ALLEN: And I've had an opportunity over the years to visit many schools that were spectacularly able to move children along, even those schools in the worst neighborhoods.

And I'm thinking of a school on the southside of Chicago in the -- in the projects that just was -- the projects are gone now, but it was just the kind of school that one normally would expect to have a very poor outcomes for the kids, because most of the schools in that same area did. And yet this one shining star did so
beautify well and it turned out, as we examined it, that it had a principal who was just all in. Just absolutely everything that needed to occur occurred. She was wonderful with the teachers; she was wonderful with the students. She put a washing machine in her office so if kids that didn't have clean clothes and were embarrassed, she had clothes for them and she'd wash their clothes. I mean, I'm not suggesting that principals should do that in New Jersey, but --

MR. DEL GROSSO: We can negotiate it, Senator.

SENATOR ALLEN: It's just an example that --

that she was -- she'd work 20 hours a day if that's what it took. She wanted to make sure that her kids got everything that they needed. And the teachers either caught that spirit from her, or she had teachers that had that spirit to start with, I'm not sure, although I guess it was probably a combination of the two. And they did wonderful things. But they worked together. Truly it was a collaborative effort. And I --

I sense that we don't have that today.

And I wonder, as you talk about teachers doing -- being part of the committee interviewing when other teachers come in, would those who are doing the interviewing be chosen because they are the best teachers, or how would we --

MR. DEL GROSSO: Yes. When you formulate the committee, you formulate it, based upon, present teacher reviews.

And, So we're not looking for the average satisfactory teacher, we're looking for someone who went beyond.

And the evaluation process that we presently have, we just redid a couple of years ago to be in concept of what we did with Seton Hall. And it is much more stringent.

In the beginning we had a lot of resistance, you know. I mean, teachers are members of the union. And when it was presented, we had a lot of resistance, but as we explained it and unfolded it and showed them that it was going to be fair and equitable, that's the most important part. A teacher wants to be evaluated fair. Just because you wash the principal's car doesn't mean that you're the best teacher in the building.

SENATOR ALLEN: Well, that's -- that's, of course, my concern, that, you know, if you -- if you want to have a good peer review, you know, bring gifts every Friday.

MR. DEL GROSSO: That's correct.

SENATOR ALLEN: Whatever it is.

MR. DEL GROSSO: That's how I started my career, Senator. That's how I lasted 25 years in Newark.

SENATOR ALLEN: We have peer reviews every Election Day, so we're well aware of how that works, and we -- there are too many people for us to give gifts, so we don't have that option.

MR. DEL GROSSO: That's right.
SENATOR ALLEN: I guess I'd like to know more about this, and I don't know the Toledo Plan, so...

MR. DEL GROSSO: I'm going to give you some.

SENATOR ALLEN: Do you have some of that information?

MR. DEL GROSSO: Yes. I do.

SENATOR ALLEN: Perfect.

MR. DEL GROSSO: I have some of that material. And you have an astute mind because you're on the money. Where principals act that way, and where principals go that extra mile, where the principal says to the, you know -- where the principal stands in front of the office with his arms folded and says, you're one minute late, you know, you are nothing but a teacher. Remember who I am, I'm the principal. Those schools inevitably fail, and usually that principal goes on to be the superintendent, but that's neither here nor there.

SENATOR ALLEN: And gets paid a lot.

MR. DEL GROSSO: Yes. Well, no more, which is, you know -- I'm glad about that.

SENATOR ALLEN: Let me ask -- let me ask one other question. The school board was also mentioned.

MR. DEL GROSSO: Yes.

SENATOR ALLEN: And this has always been a concern, so many people who run for school boards do it for the right reason and put in their time --

MR. DEL GROSSO: Right.

SENATOR ALLEN: -- and try to give their very best, but there are others who either don't have the background knowledge, even though we're looking to have them trained more, or are there for the wrong reasons.

MR. DEL GROSSO: Exactly.

SENATOR ALLEN: How do we, in your estimation, try to deal with that situation, because clearly that -- school boards play a very important role --

MR. DEL GROSSO: They do.

SENATOR ALLEN: -- and I'm not sure of their oversight? They are volunteers, God bless them for being willing to do that.

MR. DEL GROSSO: Yes.

SENATOR ALLEN: They are -- we ask a lot of them, and in some cases more maybe than is fair. I mean, what would be your suggestion in how we can make some changes so that school boards can do their job better?

MR. DEL GROSSO: Yes. I had the privilege of being a board member, and I was a board member for the Essex County Vocational Schools. I was appointed by our county executive, Mr. DiVincenzo. So I got that perspective. And I went to the NJ -- New Jersey School Boards Association training -- and that was very good. I think the New Jersey School Boards Association does a great job in that area. And I know that we're tight of funding, but I wish they would expand their training,
because a lot of board members don't have the right viewpoint, you know. They're policymakers.

But in the everyday operation of schools, they're not really supposed to be that involved in it, you know. They are the policymakers. And once you have a superintendent, you have your principals in place and your teachers in place, your job should be to want to succeed at what you're doing, you know. And sometimes that doesn't happen.

But as you said, they give up their time, and most of them, I find, you know, are trying to do a very good job.

SENATOR RUIZ: Thank you, Joe.

I just want to take this opportunity, in the summer we had a great discussion --

MR. DEL GROSSO: Yes.

SENATOR RUIZ: -- and today your approach is quite the same, very candid, real and open. And the progressive nature of what you've put forth today is appreciated.

I just want to thank you for your commitment to our students, specifically in Newark.

MR. DEL GROSSO: Thank you.

And I just want to close with saying, you know, we had a mayor in Newark, Kenneth Gibson, and Kenneth Gibson, you know, during his tenure made one great statement, he put me in jail -- but that's a discussion for another day -- when I was on strike, but I forgave him, and what Ken said was, that wherever America goes, Newark is going to get there first.

And it's my prayer that Newark is going to get there first with reform and show all of you that we have a great school district, and I want to be part of that.

SENATOR RUIZ: I'm going to join you in that fight.

MR. DEL GROSSO: Yes.

SENATOR RUIZ: I believe that Senator Whelan has a question.

MR. DEL GROSSO: Yes.

SENATOR WHELAN: Yes. Thank you, Madam Chair.

And I really appreciate your testimony --

MR. DEL GROSSO: Thank you.

SENATOR WHELAN: -- and I see that you provided documentation --

MR. DEL GROSSO: Yes.

SENATOR WHELAN: -- on the Toledo Plan --

MR. DEL GROSSO: Yes.

SENATOR WHELAN: -- and the peer review makes all -- you know, some used the phrase earlier about a knee-jerk reaction, and, I mean, as a teacher peer review makes all the sense in the world to me --

MR. DEL GROSSO: Thank you.

SENATOR WHELAN: -- as a knee-jerk reaction.
We have a specific idea from NJEA in terms of going to arbitration as opposed to the system that we have now. Do you have any --

MR. DEL GROSSO: No. You know, at the end of this system, what could be added -- we can tailor -- we don't have to use exactly the Toledo Plan, you use a hybrid of it like they did in Rochester.

But I would say, at the end of this, say you don't agree with the peer review committee, you go to arbitration.

SENATOR WHELAN: Okay.

MR. DEL GROSSO: And saving the money, you know, it has to be an aspect of it, but I want to see a fair approach to it.

SENATOR WHELAN: I mean, I think your approach, really, and the attorney has addressed the --

MR. DEL GROSSO: Thank you.

SENATOR WHELAN: -- question that I raised earlier is, you know, let's deal with this stuff before we get to the point where --

MR. DEL GROSSO: Absolutely.

SENATOR WHELAN: -- we're firing people.

MR. DEL GROSSO: Absolutely.

SENATOR WHELAN: Because that's what you're doing.

MR. LISS: We do.

MR. DEL GROSSO: And we try.

SENATOR WHELAN: So I agree with that approach, but, ultimately, at some point --

MR. DEL GROSSO: Yes.

SENATOR WHELAN: -- that issue has to be addressed.

MR. DEL GROSSO: Definitely.

SENATOR WHELAN: You don't have a problem changing the system?

MR. DEL GROSSO: Absolutely not.

SENATOR WHELAN: Okay. Thank you.

MR. DEL GROSSO: Absolutely not. Thank you.

SENATOR RUIZ: Thank you very much.

MR. DEL GROSSO: You're welcome.

SENATOR RUIZ: I would like to call forward Ada Beth Cutler, Dean of the College of Education from Montclair State University; Candace Burns, Dean of the College of Education, William Paterson; Sarah Kern, Associate Dean, School of Education of The College of New Jersey; and Sharon Sherman, Dean, School of Education at Rider University.

SENATOR WHELAN: Madam Chairman (sic), if I may, while the deans are taking their seats, and to the others who are going to testify, I'm going to have to leave. We have State Government today, and as much fun as tenure is, we have binding arbitration and civil service reform on the agenda there.

So -- and I do apologize that I'm going to have to leave very shortly in the middle of the testimony of
our deans here.

How come we don't have any men that are deans of --

SENATOR RUIZ: And that shows -- Senator Allen, did you hear the comment that Senator Whelan said, that the deans were missing a male representation, and I was about to make a wise comment, but --

SENATOR WHELAN: I think the Dean of Rowan is a male; right?


SENATOR WHELAN: Used to be.

SENATOR RUIZ: Keep on going.

SENATOR WHELAN: Pardon me?

DR. CUTLER: Rowan is a female.

SENATOR RUIZ: From women we shall learn.

SENATOR WHELAN: I never saw that. All right.

All right.

SENATOR RUIZ: Dean Cutler.

Good afternoon, Madam Chair, and Committee members; my name is Ada Beth Cutler, and I am the dean of The College of Education and Human Services at Montclair State University. I appreciate the opportunity to speak to you today about teacher quality, and I will be brief in my remarks, but I will be happy to answer any specific questions you may have.

I want to begin by letting you know that Montclair State University's teacher preparation program has garnered national recognition as one of the very best in the nation. Most recently, in 2010, we were named among the top 20 in the country for teacher preparation by US News and World Report, ranked 14th and above Harvard, NYU and University of California at Berkeley, among others. And just last month we won a highly competitive national award from the Council of Great City Schools for significant effects on student achievement in a small set of schools in Newark that we work closely with.

One reason for these accolades is the fact that we have one of the strongest and most mature school-university partnerships in the country called the Montclair State University Network for Educational Renewal, with 27 urban and suburban school districts in our area, including Newark, where we have a $6.3 million Federal Grant to implement an Urban Teacher Residency Program; also Montclair, Elizabeth, Nutley, East Orange and Caldwell-West Caldwell, among others. With these districts, we focus on the simultaneous renewal of the schools and teacher education.

These are the districts where our students spend time in their extensive and well-mentored field experiences, and the partnership offers a wide array of professional development activities and opportunities for teachers and
principals in these schools.
And, in fact, the district pays dues to the
partnership because it is so valuable to them.
The teachers who host and mentor our students -- our
teacher education students -- in these partner schools, are
required to take mini courses on mentoring and coaching,
teaching for critical thinking, and culturally responsive
teaching.
Teaching is a clinical profession, and good
teacher education must include high quality field
experiences threaded throughout candidates' preparation
programs.
We assess our candidates' growing knowledge and
skills as they progress in our program, and we thoroughly
assess their performance in the classroom during student
teaching, including assessing how they impact student
learning in a very beginning way.
When we recommend our graduates for state
certification, we are confident they are ready to begin
teaching.
In New Jersey, principals and supervisors tell us
they are happy to hire Montclair State graduates because
they possess deep knowledge of the subjects they will teach;
they understand how children and adolescents learn; and they
know how to plan and implement instruction that is rigorous,
engaging and tied to standards; they understand and practice
culturally responsive teaching; and they know how to develop
a classroom community that is caring, safe and conducive to
learning.
In short, they are excellent beginning teachers.
And that is our primary job in teacher preparation,
educating excellent beginning teachers.
In fact, Mike Pallante and Steve Abudato just
told me about one of our graduates they hired this year in
Newark, and that he is, in fact, an excellent beginning
teacher.
But we also recognize that teaching is a complex
and demanding profession, and good teachers must continue to
learn, develop and improve throughout their careers.
Once our teacher graduates leave us, the process
of becoming expert teachers is up to them and the schools
that hire them.
Research shows it takes five to seven years for
teachers to reach their full potential in a classroom, and
schools must provide the mentoring, meaningful evaluation,
and professional development that teachers need.
And I'm happy to answer your questions about what
that kind of meaningful evaluation should look like.
Responsibility for the quality of teachers in New
Jersey's public schools does not rest solely with teacher
education programs. Good preparation is only the first
step. Once teachers are hired, they must be given
appropriate assignments -- not the most difficult classrooms
that veteran teachers don't want, and they must be properly
supported in the first few years of their career. We all know we have a national problem with teacher attrition. One third of teachers leave the profession in the first three years, and in many urban school districts where the need for good teachers is most critical, 50 percent of teachers leave in the first three years. Most teachers who leave the profession say it was because of a lack of administrative support and dissatisfaction with the job of teaching. At Montclair State we not only prepare excellent beginning teachers, we also prepare and work with principals to understand how teachers learn and develop and what their roles are as instructional leaders. Within our school-university partnership, we provide mentor teacher preparation workshops and institutes, and in many schools we collaborate on the development of induction support programs for teachers. Ultimately, the goal for us in teacher preparation -- and I believe for you, too, as members of the Senate Education Committee -- is to assure that New Jersey's public schools have the very best teachers possible for all of New Jersey's students so they can succeed in school and in life. At Montclair State, we are doing our very best to make this goal a reality. I'm happy to answer your questions now about teacher preparation and also about teacher tenure. And please know, Madam Chair, that President Cole has offered the University's full resources and any advice and counsel that you may seek as you move forward in your important work. Thank you.

SENATOR RUIZ: You talked a little bit about the timeframe between five and seven years reaching the full potential of a leader in the classroom, if you could elaborate a little bit on that. And then you suggested that you had a structure or --

DR. CUTLER: Some thoughts.

SENATOR RUIZ: Right.

DR. CUTLER: Some thoughts based on research, yes. Madam Chair, I would be happy to answer that. We all know, as I said, the reason I emphasized that we prepare excellent beginning teachers is, no one could possibly make a claim that a first-year teacher is the best teacher that person can be. It takes time to gain the expertise to truly be a master teacher to accumulate the experience and the repertoire of skills and the time to reflect and to grow. And the research shows that at some point in five to seven years, that teachers can be called master teachers. Interestingly, the research shows that after that there isn't a huge trajectory of growth. That doesn't mean that good teachers don't still continue to learn, because new
things, new strategies, new tools come to the forefront. But
the change and expertise that's most dramatic is between
the first year and the fifth to seventh year.

In terms of evaluating teachers, you know, when
all of the discussion about student test scores, we need to
recognize that approximately two-thirds of teachers are
teaching in a grade or a subject that is not a place where
standardized state tests are administered.

So we have to look beyond student standardized
test scores to evaluate teacher performance.

And I talk about a web of evidence. I mean,
the Colorado law talks about multiple measures. The
Educator Effectiveness Committee here in New Jersey is
trying to deliberate on multiple measures of student
achievement.

Some of those can include, besides standardized
test scores, classroom assessments that teachers use, not
only to look for the quality of the assessments, but also
the quality of the results.

There is a methodology called Teacher and Student
Work Sampling that has been deemed valid and reliable. It
originated at Western Oregon University, and it is a process
of looking at and assessing the quality of the work
and the assignments teachers give, and the quality of the work
and the thinking that students exhibit and the growth they
exhibit in their work.

We also can look at video analysis of teachers
performance in the classroom.

The National Board for Professional Teaching
Standards -- which gives national board
certification to teachers -- does have an entire process
of evaluating teacher performance in a very nuanced way.

So there are possibilities beyond the
standardized test scores; they certainly are going to be a
factor. But, again, they're only even in existence for
approximately a third of the teachers who are teaching in
our public schools.

And we need to look at teacher plans, teacher
lesson plans, the ways in which they adapt instruction for
English language learners, for students with special needs --
these are all factors in students success.

SENATOR RUIZ: Senator Allen, do you have a
question or did I ask it?

SENATOR ALLEN: You answered my primary question.
I just want to see -- when you speak about teachers leaving
the profession -- it is not going on, so I'm just going to
speak very loud. In teaching about -- in talking about --

SENATOR RUIZ: Hold on, Senator Allen.

If you could turn your mikes off, that might be the
problem.

SENATOR ALLEN: There we go. Thank you.

You say that many leave in the first year, a third
in general, and in some of our toughest districts maybe a half
leave.
My question is, while they say that it's because of lack of support or dissatisfaction with the job of teaching, how much of it is lack of support; and is there also a piece that there might be another family reason?

DR. CUTLER: Madam Chair and Senator Allen, there certainly are other factors that enter into it, but the most common reasons that teachers give are lack of administrative support and dissatisfaction with the job of teaching.

It also -- sometimes, and in some states, it's low salaries. There are other reasons that teachers give for leaving. But, you know, there is a well documented phenomenon that in the beginning of teaching that's sometimes called trial by fire. We shouldn't be having teachers learn their profession as trials by fire. We need to provide supportive learning processes for teachers as they begin to teach because, as I said, we can only prepare them to be excellent beginning teachers.

SENATOR ALLEN: What -- what kind of support does the average teacher get; and what kind should the average teacher get?

DR. CUTLER: Well, it varies tremendously from district to district, so I want to be clear about that, Madam Chair, but in -- even though in New Jersey there is a requirement that first-year teachers have mentors -- and I agree, by the way, that it should be two years as it was in the original regulation -- but the quality of the mentoring is very uneven. In some places there is no preparation, not much of a selection process, and it's done on the fly, mentoring on the fly.

SENATOR ALLEN: How do we change that? What should it be?

DR. CUTLER: Ah. It actually should be a required two-year process where mentors are selected carefully. That, first of all, they have to be excellent teachers who get outstanding outcomes with their own students, and then they have to learn how to mentor, because knowing how to teach children is not the same as knowing how to mentor. And then they need to be provided with time to do that.

There is a new teacher center in California which has data that shows that when well-prepared and well-selected mentors are taken out of the classroom for a period of time just to mentor a select group of teachers instead of teaching during those initial years, that 95 percent of teachers are retained in the first few years of teaching. It's very compelling data. So mentoring matters. The quality of selection, preparation and the time to do it. And it is an investment, yes. It is certainly an investment, but there is an enormous cost to teacher turnover.

I talked to principals who say, I feel like I flush professional development down the toilet, because I am...
constantly having a turn and a turnover of teachers. So whatever we do there -- they come and they go. So investing in mentoring is a really -- in the end, can be a cost-saving measure.

SENATOR ALLEN: You said you had a study that indicated 95 percent of the teachers were retained; could you make that available to --

DR. CUTLER: Absolutely. Absolutely.

SENATOR ALLEN: -- the Chair and she would then get it out to the rest of us?

DR. CUTLER: Yes. From the New Teacher Center.

SENATOR ALLEN: We -- you know, we're dealing with no money in the State of New Jersey, and yet we want to see these things, everything that can be done, done; do you see a way to do this with minimal funds? And let me tack on to that, is there -- actually, let me make this a separate question.

Is there a role for the universities going forward rather than just, you finish, they get their degree and then they're off? Is there a role for the universities to play with students, with your students, as they become beginning teachers?

DR. CUTLER: Absolutely there is a role for us to play. We do stay in close touch with our graduates. We have a computer network that they participate in with us and we have professional development for them, but it's not the same as site-based mentoring and careful support.

There are incremental ways to do this, Madam Chair and Senator Allen. It -- obviously, there is a gold standard, it is expensive. Although, as I say, I think it is an investment that ultimately is cost saving. But there are instrumental ways to do it. And I think requiring that teachers have mentors for two years, that there be some attempts to provide them with time; and some schools they are relieved of some of the duties that teachers have outside the classroom. There can be some creative scheduling so that mentors and mentees have the same preparation periods and can spend time in each other's classrooms. There are ways that it can be done. And there are school districts in New Jersey who are doing it well despite the lack of funding, and even the lack of the regulations that we need.

SHARON SHERMAN: I would like to add something. I'm Sharon Sherman, Dean of the School of Education at Rider University. Here in New Jersey, about five years ago we received a Teacher Quality Enhancement Effectiveness Grant from the United States Department of Education, and as part of that grant, we created a mentoring tool kit. It's available free for all districts from the New Jersey Department of Education. And the tool kit, which is actually a big red box if you -- that's, kind of, how it's sent to you -- contains numerous tools that help with the mentoring conversation and give all types of very
detailed directions to implement a sound mentoring program.
And up until about two years ago, the New Jersey Department of Education did fund mentoring of new teachers. And, unfortunately, due to budget cuts, that money was eliminated. But it was in effect for quite a number of years, and that did help.

SENATOR ALLEN: I have a follow up on that, and I'm not sure exactly where I stand on this, but I ask your opinion for those of us who had careers in the private sector, when we wanted to move forward, we did it on our own. You, you know -- you need to take further classes, you take those classes; you need to go and observe, you do that on your time off. And so you're not being paid to do it, but if you want to move forward in your career, that's the way you move forward in your career.

Are we making our beginning teachers understand that it is on their shoulders, that they need to take the prerogative and say, I need this, I need to move forward on this and not expect everything to be given to them? And maybe that's not the case.

But I get the sense that, you know -- I hear from teachers in my office and it's, well, you know, I'd love to be able to do this, but I'm not being paid to do this extra 15 minutes.

And I worry about that sometimes because, Lord knows that I didn't get paid for all those extra minutes when I was trying to advance my career.

DR. SHERMAN: Dedicated teachers work very hard and they are willing to put in extra time. I think, you know, in any field, there are people who are counting the minutes, but I don't think it's most teachers.

But a lot of the professional development that teachers need, needs to be collaborative. Teachers working together to look at student work, to look at student data with guidance from experts.

In fact, some of the plans in the state for implementing the notion of master teachers who can work with their colleagues on professional development and coaching and mentoring -- this is the place for that.

So some of it has to be on the job. But a lot of teachers pursue graduate courses and master's degrees at their -- often at their own expense, some districts have some tuition reimbursement, but most teachers pursue that at their own expense wanting to be better educated. They go to summer institutes.

The teachers in our network and our school university partnership come to summer institutes that we run. They don't get paid for that on the days -- at the first week after school last year, we had 300 teachers on our campus for a week pursuing professional development. No pay. No glory. Just because they wanted to continue to learn and grow.

So I think it needs to be a combination, Madam
Chair, of what the school provides and what individuals pursue themselves, but it can't all be on the shoulders of individual teachers.

SENATOR ALLEN: But when a teacher graduates, does he or she understand that it is not just okay, but really must be from them a pointed decision to say, I need this?

CANDACE BURNS: I would like to speak to this. I'm Candace Burns; and I'm Dean of the College of Education at William Paterson University.

Part of teacher education today emphasizes continuous professional growth and development. It is something that literally they experience on a regular basis throughout their course work.

I also want to speak to your question about mentoring and the University's commitment.

I have been dean of William Paterson since July 1st. I was a lucky recipient of-- We have teacher quality partnership money as well as transition-to-teaching dollars, which we have used, I believe, very well toward mentoring and systematic induction of teachers for the first three years of their career. Not only do we do that, but we have 60 professional development schools, the majority of which we have what we call professors in residence in the schools, who are the eyes and ears in the school on a regular basis -- that we have been able to partly fund through our grants. But schools have liked them so much, they have also provided professors in residence.

And so I see teacher induction is something that we have taken responsibility for, but, frankly, we're not going to be funded forever for what I consider model efforts in this regard.

So I just wanted to say, like Montclair, we have also won recognition for our innovations in teacher preparation.

And also we're very proud and we're carefully following our models in pathways to teaching, to look at which ones produce the most successful teachers who, let me underline this, stay in the schools and make a difference.

SARAH KERN, Ph.D.: I would -- I'm sorry.

I'm Sarah Kern, Associate Dean at The College of New Jersey, the School of Education.

I would like to speak to Senator Allen's question about, are our students in the School of Education aware that continuing education and professional development really rests on their shoulders as professionals?

From the moment our students enter the profession of education as sophomores, because -- actually it is freshmen, they're given intensive content course --
foundation, which then they use that deep rigorous information to become better teachers in the classrooms. But from the moment they enter their careers at the College of New Jersey, they are teacher scholars, and they understand the importance of engaging not just in methodology, but in informative research. And this -- these skills of learning, learning to improve their practice, improve their knowledge, improve their skills, is a life-long habit. That's what I call a habit of mind of a teacher. Four years of college is not over, it's just beginning. And I wanted, if I may address the question that seemed everybody spoke to this morning, which is, how do we know what an effective teacher is? I think-- I'm sure I speak for my colleagues, and I know them and their programs, we work -- very hard at researching exactly what we feel will make an effective teacher. And we have very defined assessments, both performance assessments and disposition assessments, throughout the semesters that the students are studying in the college. These assessments, whatever their course work, and the course work is very clearly integrated with clinical practice because, as Dean Cutler has stated, the research is very clear, clinical practice -- this is a clinical profession, and clinical practice prior to becoming a certified teacher is essential. For those courses where students are out in the field as sophomores and juniors and seniors, hundreds of hours they are in the field and mentored and supervised. We assess them. And it is certainly our responsibility, and it happens every semester, that we will counsel students out of the School of Education, because they have not met the standards that we think are necessary to be a highly effective teacher. So I don't think there's an enormous amount of mystery about what a highly effective teacher is. And it does require multiple measures, but we know what it takes.

SENATOR ALLEN: Thank you.

MS. BURNS: I would like to also add one more thing. When we talked about mentoring teachers, all teachers, I don't care how long they've been in the profession, they need continuous improvement and growth and mentoring, and that's why I think professional development schools are so powerful. It's not only what we think is effective teaching, it's what the schools tell us they need and what the principals tell us and the superintendents. And the teachers every day say they need, in the way of encouragement to help them grow, certain skills that are targeted toward their schools. So we've been really fortunate to partner with schools and we're learning a lot about what is effective and what is necessary.

SHARON J. SHERMAN: Madam Chair and members of the
Committee, I'd also like to talk about the content preparation of pre-service teachers. Each one of our teachers has two majors, double major. There is a major in a content area such as chemistry or biology or English or history, plus another full major in education and a full course of course or full selection of courses in general knowledge in the core content areas. So there is tremendous content knowledge and focus on content knowledge.

And at our NCATE accredited schools, not only do our students pass the state -- the practice test, but we also implement additional tests of content knowledge to be sure that they are solidly grounded in that area, and then they have the pedagogy and the pedagogical content knowledge as well.

And, again, all of our programs are field-based, with professors in the field working with the students from the very first course ensuring that they are making progress as they should.

Can I -- I would like to say a little bit about our administrator preparation programs as well, because that's been another big part of what we've talked about today. We prepare our administrators in a way that's similar to the way we prepare our teachers. The program is field-based, and all course work and projects are aligned with state and national standards. Within each course, leadership growth projects are assigned, which address all aspects of educational leadership.

The program culminates in a 300-hour internship experience where students complete a data-driven action research capstone project. And it is important to know that the whole program is supervised in the field by experienced mentors.

Now, the big question of the day is -- has been, how do we assess teachers? What are the multiple measures? And I'm going to give you the multiple measures we use at Rider University in our Principal Preparation Program.

Our candidates are exposed to the use of multiple measures of assessment for teacher evaluation and are keenly aware of the importance of targeted professional development.

They learn to assess teacher performance through classroom observations centered on evidence of student learning -- and you've heard a lot about evidence of student learning this morning, district wide or teacher-generated assessments, student performance on high-quality assessments, the high stakes test that we know about, examination of student work. And just as in our teacher preparation programs where our students undergo the teacher work sample, the administrators do the same thing. They look at student involvement in extracurricular
activities -- student status after leaving each grade level as well as what happens after they graduate from high school. So those are the multiple measures that we have implemented in our principal preparation program. Through careful analysis, they assess teachers using many of these weighted measures. So they all don't count the same, they're weighted based on importance. Upon completion of the program, our candidates are extremely well prepared to assume a leadership role in a variety of school settings. And, again, as with my colleagues throughout the program, we assess our teacher and our administrator candidates on an ongoing basis very carefully. Not only is this required by our accreditations -- and we are all NCATE Accredited National Council for Accreditation of Teacher Education. Most of our schools have CACREP for the counseling programs. So this is a very well defined, very carefully implemented system.

And at Rider University, each semester we aggregate all of the data -- the assessment data -- for all of our programs, and the faculty meet together for a whole day and we look at the data for each program to see if the programs are good enough, and we make changes based on that. So I just wanted to mention a little bit about our administrator programs and as with the other programs, we have our teacher learning community, we have the programs where our cooperating teachers are mentored. And, again, to answer your question, last summer we had -- just as Montclair did, we had a teacher leadership institute where our teachers came for multiple days, these are teachers who are experienced, no pay, they came day after day after day to learn more. And they can't wait for next summer's program.

So thank you for allowing me to make these comments.

SENATOR RUIZ: Thank you very much. Senator Allen.

SENATOR ALLEN: Thank you for giving us that insight on the teachers that are doing what we assume they all are doing, which is looking to improve themselves. And I am thankful to hear about those great numbers.

I have a question on preparing administrators. It seems to me that administrators need to look at their job in a very large way as entrepreneurs; is that something that's encouraged? And I don't know if you can follow what I'm saying, but --

DR. SHERMAN: Yes.

SENATOR ALLEN: -- their -- to my way of thinking, their school, they're running a small business and they have a product, and they, I mean, not to say the children aren't -- I don't mean to talk about kids as just products, but if they have an entrepreneurial aspect to what they do and they bring the teachers into it and move together, that, I think,
Is that something that is taught --
DR. SHERMAN: Yes.
SENATOR ALLEN: -- and -- yes. Go ahead.
DR. SHERMAN: You want -- we all --
DR. KERN: I can certainly speak to that. At the
College of New Jersey, our school and leadership program is
quite remarkable in that regard.
They have one course -- first of all,
there is a course on school finance and school law.
So immediately all students who, of course,
already hold a certification, one certification and a
bachelor's degree at least -- these folks are going for a
Master's Degree in Education, they're getting -- they not only
understand schools, but they're getting the entrepreneurial
understanding in terms of what it means law wise, economic
wise, finance wise, what's zero-base budgeting.
When you get a budget, how do you move those
numbers around for the targeted needs of your school?
So your -- your student/teacher ratio might be 25
to 1, but what does that really mean? Do you need a music
teacher instead of a reading recovery teacher? What is the
targeted need for your school?
And one of the things that this program does is,
takes a real district in New Jersey and analyzes the data
top to bottom, the demographics, the student
achievement data, all of the data that's available to them,
then they interview the principals and the teachers. What
are the needs in this district? And their research during
that semester is focused on, how are we going to be problem
solverson the school district?
And at the end of the semester they
have worked intensely to come up with targeted solutions. They
go back to the school district, and, yes, they are
prepared to be, at the end of their program not only
principals and leaders, educational leaders in the school,
but problem solvers. And entrepreneurs should be problem
solverson.
DR. CUTLER: Madam Chair, another aspect of
this is a concept called distributed leadership.
It really is impossible for any one human being to
do all of the leadership managerial activities that a school
needs to accomplish.
And the most successful principals understand that
good schools practice distributed leadership, where teachers
and supervisors and everyone in the school has a role in
making sure that things work -- that there are ways of moving
ahead, that they're group problem solving.
And, So that's a very central feature, I think,
of all of our preparation for school leaders. And the
assignments that they do in their course work are not
ivory tower; they're all school based, they're all real-life
situations that principals face where they need to take
creative, innovative approaches to solving the problems that they face.

And in terms of entrepreneurial in -- you know, the financial spirit of that word, we also educate our principals to seek -- how to seek grants, because that isn't something that most people know how to do.

And yet, there is a lot of grant money still out there that's available school by school and, obviously, district by district. So that's another piece of the entrepreneurial pie.

If there's money out there other than the school budget, it's not a lot, but it is possible if you know how to go after it to get it.

DR. SHERMAN: Right. And I'd like to add, that at Rider University, our program also focuses on that.

We talk about the innovation agenda that a school leader needs to implement, and that includes increasing the value of the education that your students get.

Can you take another look at your curriculum; can you renew and revitalize your curriculum; and can you take a look at what's going out -- going on out there in the world and move your school ahead as a business would move ahead?

And, again, through grant funding and keeping up with -- with what's happening in society.

MS. BURNS: I also think our administrator programs are excellent at using technology to move things forward.

We have an electronic community that is alive and vibrant in our educational administration leadership area.

The cohort model that they use has people in constant communication with one another, as well as sharing innovations for schools.

And, So we see a lot of best-practice modeling going on with the new emerging leaders. One of the problems is, for them to have the funding to come back and become leaders of -- in the transition from teaching, we have been able to fund a cohort of leaders to come through with a dedication to working in urban school settings, and we're eagerly awaiting their entrance into the schools.

SENATOR RUIZ: I want to thank all of you. And I'm sure this is the first meeting on numerous phone calls that I will be having in conversation with all of you for what you're doing and the types of -- I think we could sit here with all of you and talk at length for hours and hours, and I just want to thank everybody for their patience. And I know that it's been a long morning, but it's certainly a critical and important thing that we are discussing here today. I want to thank you.

I want to bring up AFT Representative Jeff Trifari -- Trifari, and then followed after Jeff we'll hear from the New Jersey Association of School Administrators.

JEFF TRIFARI: Where would you like me to sit?
SENATOR RUIZ: Anywhere, sir.
And, again, I just want to thank everyone.
If anyone is here for the State Government Committee -- I feel like I'm making general announcements. If anyone is here for the State Government Committee Meeting at 1:00, it is moved to Committee Room 7.
Thank you, Jeff, for your patience.
MR. TRIFARI: Thank you. Is this on? Thank you, Honorable Chairwoman, and members of the Committee, for allowing me to discuss with you a couple of things; teacher preparation, evaluation and tenure.
My name is Jeff Trifari; I teach at North Bergen High School. I think I'm the only teacher, active teacher, that's on the list for today to speak. I can probably answer a lot of your questions that you've been asking about: what goes on in the classroom today?
I'm also a member of the North Bergen Federation of Teachers, and I'm also a vice president of the K through 12 division of the AFT New Jersey State Federation with no pay. It seems like all my extra jobs are no pay. I'm also happily married with two children who are -- who have benefited from the public education system of New Jersey.
As any effective teacher knows, a long speech -- the longer the speech, the less attention I get, so I'll try to make my testimony brief as possible.
You've heard a lot of things today, and you might think this is surprising coming out of me, but I think that the teacher evaluation system is broken. It needs to be fixed. No group wants this done more than teachers do.
The one thing that isn't broken is due process. As a matter of fact, the more that the evaluation system is broken, the more that we need due process. So if you fix the evaluation system, we wouldn't need the due process as much.
That doesn't mean that we should keep going as we have, as I will explain.
Let me tell you about my first three years, briefly, of teaching; how overwhelming it is as a teacher. Tenure is three years and one day in the state; most other states as well. Many new teachers coming out and coming into the classroom are really unprepared for the effects of a classroom in an urban district, especially with poverty, poor hygiene, poor behavior, overwhelming class size as just a few of the challenges that new teachers are facing today.
We are called upon to help students meet their standards. We are also called upon to help students in all aspects of their lives. And after the first three years -- actually, after the first year and so on, the first three years, this system, this evaluation system, has really left me to sink or swim.
And, fortunately, because I love what I do and I
work my butt off, I was able to swim. And each year I feel
like I'm improving, even after 20 years of teaching.
But this shouldn't be surprising, because all
research shows that an experienced teacher is the single
strongest and most consistent factor associated with
success in student learning.

In most districts across the country,
teachers can gain tenure after being observed by an
administrator that would come in with a piece of paper in their
hand and boxes and they check you off. And they
do this for three years, a couple times a year, and
sometimes they don't even stay the whole class period, and
if they are evaluated as doing a satisfactory job after
three years and one day, they're granted tenure. This is the way
it was 20 years ago when I started, and it still is today.

This is the system, the same system that left me to sink or
swim. And needless to say, it doesn't do enough to improve
teachers teaching, or students learning.
The AFT, which I'm a member, is trying to, and
has started to do -- put tools into effect to improve
teaching and learning.
And one of the things that we need to do is, we
need to have expert observation and feedback for teachers
for their evaluation.
My colleague at the AFT New Jersey State, Donna
Chiera, also sits on that evaluation committee that the
governor just made up. She'll be part of that evaluation,
and as a matter of fact, I've heard nothing but -- so far,
good reports from that committee, a lot of good people coming
in there, of what little she could say.

Here are some of the recommendations that we
have from the AFT about teacher evaluations.
First of all, evaluation must be linked to a
strong, professional development designed to improve
teaching and learning. It needs to take into account
multiple measures of teacher practice at student learning.
Test scores alone do not. And I really emphasize that,
do not capture all of the aspects of teaching.
The creation of and implementation of lessons that
meet the diverse students in the classroom; the
still not doing well, well, I got to be honest, they probably won't stay. As a matter of fact, right now in urban school districts, half of new teachers that come in don't make it to year five. It's a -- it's a struggle. It's not an easy profession, especially for new teachers. I have a report here, I can get you copies through my aide -- about -- from Saul Rubinstein, a professor at Rutgers, who did a report highlighting several school districts around the nation about all the success they're having and all the tools that we mentioned before, that I just mentioned prior to this, how -- what they used. And in summary, the labor management cooperation is the key to all of these districts turning successful partnerships into something more than exists on paper, but something real. We need to work as a team. And I don't believe I can state that -- that the state can create a system like this by law. And you were mentioning, Senator Allen, about money. Laws require, for the most part, money. We don't need to do this by law, we could do this by supports. We just need supports. We need community support, we need family support, and we need to work collaboratively -- excuse me, I've been sitting here for awhile. I'd like to end with teacher preparation, which probably is where I should have started. It's very complex work. It can never all be learned inside any teacher preparation program. I think the teachers, the young teachers that I see coming into the field now are very well prepared, they have a lot of information, a lot of great teaching techniques. But what I mentioned before about -- especially in urban districts where I've worked all my life, getting into a classroom and seeing all the poor conditions, in some cases the schools and the children and all of the things that I mentioned before, you can never learn that in a classroom, that has to be learned on the job. And this, if they need to be in the classrooms early and often in order to learn this. This will help reduce nearly half of those teachers that leave the profession within the first five years. Additionally, teacher preparation programs need to work hand-in-glove with school districts. We need to align the curriculum from the school to what really goes on in the classroom. We need mentoring and induction programs. We need strong, professional development programs. We need an evaluation system that I described above. We need tools to collaborate with colleagues and family. We need the conditions to ensure student success. And we need the support of the community and the parents. And thank you for this opportunity, and if you have any questions, fire away.
MR. TRIFARI: I used my own printer and it's very light, so I will --
SENATOR RUIZ: If you could just forward it to our -- to my office, thank you very much.
I would like to ask Dr. Richard Bozza, from the New Jersey Association of School Administrators, with Miss Geraldine Carroll, Superintendent of Lindenwold Public Schools, and Ronald Lee, Superintendent of Orange Public Schools.

Thank you.

RICHARD G. BOZZA, Ed.D.: Good afternoon. We would like to commend you for undertaking this examination of tenure and, personally, I'd like to commend you on keeping your focus during this long morning and into the afternoon on this important topic.
I'd like to paraphrase some of my written comments at the beginning in saying that it's really important to recognize that New Jersey public schools produce excellent results with their students -- actually results that are envied around the country by the various states. And, unfortunately, all of the attention that is given sometimes to the failure detracts from the broader, bigger picture. New Jersey can boast of having some of the best public schools in the world. At the conclusion of every school year, so many New Jersey high school students graduate with honors, with advanced placement courses and international baccalaureate certificates with earned college credits, and they are accepted into some of the best institutions of higher education in the world.

But, also often, unfortunately, we don't hear about those success stories. We hear about the failures, and as a result, teachers are often disrespected and looked upon with suspicion as contributing to these failures. Administrators are regarded as guardians of the status quo and impediments to change. They're perceived as part of the problem, rather than the solution. And so for us it is important to remember that the system of public education, which we seek to reform, is creating success for the overwhelming preponderance of students.
This, in no small measure, is due to the work of the great majority of hard working and dedicated New Jersey educators. And certainly that is not to imply that improvement is not needed, because it is. Students must be prepared at higher levels than ever before as we seek to prepare all our children for the internationally competitive flat world economy of the 21st century. We cannot afford to let any of our children fail, but in the pursuit of fixing the 5 percent, let's not disregard the successes of the 95 percent and the good work of the
NJASA is in agreement with those who believe that it’s time to reform the education tenure system for New Jersey’s school employees. We do not believe that it should be abolished. However -- as protections for employees that contribute to a stable learning environment and ensure due process in dismissal proceedings certainly are important. We do believe, however, that lifetime tenure should be replaced with a revised system that will meet the reasonable goals of tenure and also contribute to high standards for employee performance.

In our review the following are essential components to implementing a system which is fair to the employees, but importantly, requires continued growth and high performance throughout an educator’s career. The first: the probationary period for school employees should be extended from three to five years. This action would provide for a more complete induction and the opportunity for the employee to demonstrate growth and performance at a high level before the granting of tenure. Similarly, the probationary period for an individual who possesses tenure in one position in a school district and is appointed to another requiring a different certification would be required to also complete a five-year probationary period in the new position to achieve tenure. Current law requires only two years when a person in the district takes on a new position.

Once an individual acquires tenure, he would be required to be recertified every five years. This recertification would serve as a condition to maintain the tenure status. Recertification would be based on a number of factors, but primary among these factors would be a demonstrated level of effective performance as documented through the evaluation process and the reports completed for the individual. Other factors to be considered for recertification would include participation in professional activities and continuing education, active and productive participation in the school and district learning community, contributions to the community at large, mentoring activities, and meaningful participation in school activities which compliment the school curriculum. Third, recertification depends heavily then on demonstrated effectiveness in this model. It requires a performance evaluation system with clear standards which contribute to student achievement. Standards upon which educators can be fairly assessed and build employee confidence that the assessment is directly related towards continuous improvement of the educator, and, ultimately, the students under his tutelage or the staff under his direction. To that end, NJASA supports the work of the New
Jersey Educator Effectiveness Task Force Committee appointed by Governor Christie. Linking the outcomes of school children to the evaluation and compensation of the adults who work with them is an important undertaking. It is so important that the Federal government selected 13 states and the District of Columbia to receive $4 billion in Race to the Top grants to develop education reforms.

A primary area for research is the recruitment, development, reward and retention of effective teachers and principals, especially where they are needed most. The Bill and Linda Gates Foundation is also funding experiments in teacher evaluation and performance pay. The Pittsburgh School District obtained $40 million; Los Angeles charter schools, $60 million; and Memphis schools, $90 million. The Hillsborough County district in Florida, which includes Tampa, won the biggest grant, $100 million. That's the nation's eighth largest school system, looking to reshape its 15,000-member teaching core by rewarding student achievement instead of teacher seniority.

New Jersey, which notoriously did not obtain the Race to the Top funding, is headed in the same direction, but on a different path. The budget established for the Educator Effectiveness Task Force is nothing other than the unspecified support from the Department of Education. This work is critical. We need to pursue information that informs educational practice and provides opportunities for educators to modify their work based on solid data about student performance.

True accountability provides the student, teacher and school leader with feedback about performance throughout the year, allowing each to modify his work and the learning program for students to achieve success. Performance evaluations should reflect how students are progressing, but within a system designed for success, not embarrassment. We should understand that meaningful improvement won't be made by adopting shortsighted goals and accountability systems, and we should have the patience and prudence to learn from the emerging experience of those states and systems that have secured significantly greater resources to accomplish the same goals as New Jersey's task force. We must recognize that it would report -- its report, rather, will be a beginning, not the conclusion of this critical work.

Fourth, we need to ensure that the programs which prepare our teachers, supervisors, administrators and support professionals embody the standards which ultimately are adopted as key indicators for effective performance and evaluation in their training, practicum and mentoring programs. We heard quite a bit about that from the representatives just a few minutes ago. That, however, will create a continuum and a training program which is more aligned with this new
induction and recertification program, which we are recommending for adoption. Even though recertification would be a condition for an employee to maintain tenure status, a system which adjudicates tenure charges during the employment of a tenured employee certainly will be required. The current system must be streamlined to eliminate undue expense and delay, the obstacles that are so often presented by school boards and administrators, as I'm sure you have heard today during this testimony. This system can be made to work within 180 days, and this should be a priority. Finally, we believe that it's time to reinstate tenure for school superintendents, the only professionals in the New Jersey public school system who do not qualify for tenure. Given the all too frequent turnover of school superintendents, and the greater instability in this position which will be created by the current administration's policy proposals, a tenure program for all school personnel as we propose here today will create an environment which will promote great stability and longer service by the state's Chief Education Officers.

We appreciate the opportunity to present these recommendations and we look forward to a continuing opportunity to have dialogue and input. Thank you.

GERALDINE CARROLL: Senator Ruiz and members of the Education Committee, ladies and gentlemen, thank you for this opportunity to meet with you to provide feedback on the important issues of teacher and administrator preparation, evaluation and tenure.

Both research and experience show that the most significant factor in improving student performance is quality teaching, and the most significant factor in improving teachers is strong educational leadership. Therefore, these discussions will have great impact on preparing New Jersey students to be successful and competitive in the global community of the 21st Century. As you all know, tenure was developed for the purpose of guaranteeing academic freedom and ensuring schools and classrooms were not subject to political whims and undue pressure and micromanagement by parents, community, local government and school officials. It provides continuity of instructional programs and initiatives that are costly to implement, sustain school culture and ongoing relationships between educators and families, all of these being very valuable. With changes in preparation, certification and monitoring, many of these concerns have been alleviated, except in some isolated cases, possibly in urban districts. Tenure, as it is currently structured, has outlasted its usefulness and has created obstacles to ensuring that only the most effective educators remain in the classrooms and offices of our schools, and that we are able to retain less senior teachers and administrators who
might be more effective. However, simply abolishing tenure is not the answer to educational improvement. Systemic change in preparation, professional development, and ongoing evaluation must take place as well. Currently, teacher preparation programs provide for one semester of student teaching in a school setting where, in some cases, there is little or no connection between the university mentor and the cooperating teacher or administrator with regard to the instructional initiatives and curriculum of the assigned school. It's even worse for administrators preparation as, along with their classes, they may only complete a brief internship of 100 to 150 hours, in some cases often during their prep periods while still classroom teachers, leaving little time to reflect on and gain a deep understanding of the organizational improvement -- I'm sorry, of the organizational structure and skill set necessary to both properly manage a building and lead educational improvement. Both preparation programs should be lengthier and more clinical with aligned teams comprised of university and district-based educators who can provide sustained, embedded experiences and feedback that would properly prepare teachers and administrators. While some of these experiences are provided during the first year or two, possibly by a district or peer mentor, in many cases mentorship is focused on the day-to-day administrivia or procedures of a school, rather than on the best instructional practices, including ongoing planning and preparation, the establishment of an effective classroom environment, and professional responsibilities to colleagues and the school community. Greater consistency and ongoing clinical experiences, much like internship residency in grand rounds, in the medical model would ensure a growth of quality teachers and administrators over time. Additionally, a longer probationary period, possibly five rather than three years, would allow potential educators a greater opportunity to hone their craft before a final employment decision is made. In the words of one of my own principals who, by the way, is paying tuition to send her child to our school district, I have three years to decide whether the teacher is good enough for me to have my child in his or her class. With research showing that 50 percent of all new teachers leave the profession within 5 years, often in urban schools, it is clear that greater emphasis needs to be placed on preparation and support to ensure that we have a well prepared, first-rate teaching force to place in front of our students. Similarly, teacher and administrator evaluation should be tailored to the needs of the professional rather than one-size-fits-all for both the novice and veteran at every grade level and in all content areas.
Current regulation requiring three formal
evaluations for non-tenured educators and one formal
evaluation for those who are tenured do not differentiate
truly effective staff -- those who need specific interventions
and those who have major issues.

Allowing evaluation in the form of informal
walk-throughs, portfolios, projects, videotapes, intensive
supervision, learning walks, professional learning
communities, et cetera, based on an individualized plan for
each staff member would be much more effective.

More importantly, in keeping with the purpose of
schools as learning communities, evaluation should be
designed to improve instruction and performance, not as
simply a “gotcha.”

We walk into a classroom for a classroom
observation, anyone can perform for 40 minutes. We need
ongoing experiences, including student performance data --
would certainly give some indication of the teacher's or
administrator's effectiveness.

However, using only percentage passage on a
high-stakes standardized test is not accurate and not
reflective of either what students have learned or the
quality of instruction that has been delivered to all
students. More appropriate data would be to measure student
growth or value added using multiple measures, particularly
in urban schools where there is high mobility.

In my district where mobility tops 50 percent --
that is every other student, for example -- this mobility
interrupts sustained cohesive instruction, not only for the
students moving in and out, but also for the students who
are staying in our school.

And just to give you a visual, last June I
graduated six students of my entire graduating class who had
been with my school district from kindergarten.

With 72 percent poverty -- and education is not
viewed as the solution by some of our students and families,
often resulting in poor attendance, drop-out rates and poor
student study habits and engagement.

Other challenges faced in districts where there
are higher percentages of special education students or
English language learners, instruction is, again, disrupted
and very difficult.

So standardized tests don't necessarily measure
what's going on.

To clarify that, a 16-year-old male student
arrived on the doorstep of my high school this September
from Guatemala, having never attended a day of school in his
life and not speaking a word of English. In an urban
district, this is not uncommon.

Although he has no pre-requisite skills, few would
argue that a 16 year old should be placed in an elementary
or middle school aged -- or with those elementary or middle
school-aged children. So we placed him in the high school;
it was the appropriate place to put a 16 year old.
Over the past three and a half months he has learned some English and is beginning to read and do basic math. And I feel very confident that if he remains for the 4 years until he is 20 years old and ages out, that the value that the school and his teachers have added to his life will be dramatic. However, it is unlikely that he will, with only four years of education, pass the Algebra I End of Course Test or the High School Proficiency Assessment, or that he will earn sufficient academic credits for high school diploma. He will likely be considered a drop out, and his teachers and administrators, if judged by the current standards, would be considered ineffective as well.

While this may seem an extreme example, it emphasizes that the one-size-fits all evaluation of students, teachers or administrators based on high standardized -- high stakes testing is -- is not appropriate.

Changes to observation/evaluation procedures would provide valuable tools to ensure that the best and the brightest not only enter the education profession, but also effectively remain.

In large urban school districts this is particularly important, as the cost in both dollars and time of recruiting excellent staff that wish to and can successfully work with our most needy population is enormous.

As an example, over the last month I've spent over $10,000 in advertising, in the various newspapers in addition to the free sources, in order to recruit staff for my school.

Using these tools, school districts could retain and help their professional staff continue to grow and change with the changing global economy, demographics of communities, student needs, and the ever-evolving knowledge base we have about teaching, learning, organizational management, and instructional leadership. But that is not enough to solve the issue of lifetime tenure and the cost in time, resources, and damage to students that results from an ineffective teacher or administrator who has not done something sufficiently egregious to fit current definitions of inefficiency, incapacity, or unbecoming conduct, but who is simply not performing at a level necessary for the students and staff to do their best.

Under current law, the charges are difficult, time consuming, and very costly to prove, and rarely result in the removal of the teacher or administrator, leaving the district with a large bill, a poor employee, and the perception among staff, students, and the community that poor performance is acceptable.

What would be more effect -- a more effective model would be contractual tenure or recertification every five years. This would allow for continuity, ongoing implementation of newly developed instructional strategies, organizational history and stability, and no fear of
micromanagement or outside political pressure to make arbitrary employment decisions purely based on age, cost, longevity of the employee or other external factors. In other words, taking all of the good things of tenure, but not imposing some of the challenges.

Educational improvement would be dynamic and responsive to innovative practice, changing students and communities, and the evolving mission of public schools. Teachers and administrators would be accountable for meeting the needs of the students that come to them in the future, rather than sustaining unsuccessful programs and staff because they are too difficult to change.

Non-renewal of staff would be based on performance and effective evaluation over a five-year period much as the initial employment of novice non-tenured employees or some form of the Colorado model that was described here today, which, frankly, I'm very excited to hear more about.

In summary, educating our students for the 21st Century is not something that can be relegated to those who graduate from college with the thought, that I can always teach if I don't find something else to do, or what can they do to me once I have tenure?

Research-based, best instructional practice and effective instructional leadership are far more sophisticated, complex and costly than when I began my career, and certainly more so than when I was a student.

Investing in high-quality, sustained and articulated pre-service, a longer probationary period, sustained systemic professional development, ongoing differentiated evaluation including measurable, value added accountability -- to develop and maintain the best and brightest educators -- and finite contractual tenure, although expensive, is far less so than the cost of the consequences we face by providing our students with a second-rate education.

On a personal note, I should say that I'm a 30-year career educator certified in New York, California, Pennsylvania and New Jersey, and I've never had tenure due to moving around for my family and moving from the classroom to administration. I've been a superintendent in two districts for 18 years, and I can only say that my success as an educator is due to my commitment to students and their growth, not to tenure or merit pay. And I would say that about most of my staff. We continue to strive to make all of our staff fit into that category.

I thank you for your time and consideration, and welcome any questions you might have.

SENATOR RUIZ: Thank you.

RONALD C. LEE: My name is Ronald Lee; I am Superintendent of Orange Public Schools.

SENATOR RUIZ: Your mic, Ron. Okay.

MR. LEE: Yes. My name is Ronald Lee; I am a Superintendent of the Orange Public Schools. Again, I would like to thank the Committee and the Chairperson for giving
me this opportunity to provide testimony as part of your
consideration to changes in the New Jersey State Tenure Laws.
I've held the position of superintendent for
approximately 18 months, and prior to that I was the school
business administrator and CFO with the Newark Public
Schools for 7 years, and the school business administrator
for Orange Public Schools for 12 years prior to that. And
prior to entering the educational arena, I worked nine years
as a certified public accountant in the business industry.
Let me first state by starting that there is no
more noble profession than that of a teacher. The service and
contribution to the success of mankind can be attributed
and traced directly and indirectly to a teacher. A teacher
is vital to everything and anything. The role played by
teachers becomes a very important component, specifically in
urban areas where the homes and their parental support is
lacking and not where it needs to be.
In fact, it can be said that teachers, in a
way, are our nation's builders.
We, unfortunately, in this country -- unlike other
countries -- don't value the importance that a good teacher
can play in the lives of our children. While in today's society, we revere the athletes
and the entertainers, however, we hold in contempt the
teacher in public schools for all of society's ills.
If we, in this country, are to truly change the
achievement results in education, then we must place the
teaching profession on a pedestal, as they do in other
countries, and create educational organizations that employ
only the best.
Tenure laws are one of the many obstacles that
preclude school districts from ensuring that only the best
teaching and staff members are employed. And I think we've
heard some of those today.
Although the original intent of tenure was to
provide due process to ensure that a teacher is not
dismissed for personal or political reasons -- but what it has
morphed into in this country is a system that almost
guarantees, whether perceived or real, a job for life.
Under current New Jersey tenure law, a teaching
staff member must successfully complete three years of
employment in which during this probationary period, the
teaching staff member is evaluated at least four times a
year. During this period, employees are "at will" and
districts may terminate their employment without requirement
to give a reason. The underlying flaw in most tenure law is
the assumption that the level of competency and commitment
that a teacher staff demonstrates in years one through three
will always be evident throughout a person's career.
Under New Jersey's law, once a teacher staff
member attains tenure, he or she can only be dismissed for
inefficiencies, incapacity, conduct unbecoming, and other
just cause.
Many school administrators and boards have found
that these categories are narrow in scope, subjective and
ambiguous.
Tenure charges filed with the Commissioner of
Education and defended in court before Administrative Law
judges are often unsuccessful.
Cases are lost by school districts because we are
told that we didn't give the employee ample opportunity to
improve their performance. It often takes a district two to three years to
build a case against an employee before they can file a
successful tenure case. We must first show at least one to two years of
incremental withholdings along with evaluations,
professional improvement plans, write-ups and documentations
for a successful case.

Once filed with the Commissioner, it can take as
long as a year to complete the tenure case. And when you
add up all of the time to terminate a tenured employee who
is poorly performing, it may be three to four years or more.
And I have some actual examples.

We filed a tenure charge against an employee
for poor performance after seven years of attendance
problems, where the employee actually exceeded their
occasional absences, and four of those years were docked
because they went over their bank. A secretary -- poor
interpersonal skills, blatantly insubordinate, curt, and
evaluations and observations that were noted for a long
time. Tenure charges were filed against an employee for
inefficiency. Employee was given a detailed 90-day
improvement plan with assistance. After this period of
time, the district filed charges. The district lost the
case; had to pay back $29,518 which represented the 120 days
that the employee was not paid, and reinstated to his former
position.

It should be also noted that the employee was on a
paid suspension while the case was litigated.

And I have case four, tenure charges were filed
against an employee for Conduct Unbecoming a Teaching Staff
Member.

One, the employee engaged in a physical altercation
with another teaching staff member; two, on several
occasions during a school year, the employee used expletives
and displayed unprofessional and inappropriate conduct
directed at staff members, students and parents. The
employee used the "N" word to describe a teaching staff member
in front of students. On several occasions during the
school year, the employee exercised poor judgment and displayed
inappropriate conduct in the classroom. Specifically, as a
career ed teacher, employee asked a student to draw what he
wanted to be, which he said was a porn star. The student
drew a graphic picture, which the teacher shared with the
students in the classroom.

And, lastly, the employee engaged in a physical
altercation with a student.

Over a five-year period, while the employee
engaged in all the aforementioned, the employee was on a
paid suspension for 563 days while we filed charges, and
then the tenure charges resulted in the ALJ only suspending
the employee for 30 days.

Filing tenure charges against an employee is a
very expensive process to undertake for school districts.
Many filed cases can take more than a year to resolve,
during which time the employee receives full pay
after the first 120 days. The costs to school districts are
not only the legal fees, which may be over $100,000, but
also the additional cost to pay a replacement teacher to
teach a class.

Often while filing tenure charges, districts find themselves paying for two employees in one
district position.

During the three to four years needed to collect
the documentation needed for a successful tenure case, the
question is, who suffers? It's the students. The students
sitting in classrooms with poor performing teachers are not
being provided with the high quality education they so
richly deserve. When students are subjected to poor
performing teachers, research has shown that those students
not only lose ground on their peers, but they may never be
able to make up the achievement gap lost. And I think we were --
there was testimony prior to that today.

However, the majority number of teachers -- the
majority number of teachers will never have to invoke the
tenure right protection because they will always provide
excellent job performance. Good teachers are to be highly
regarded and held in high esteem. It is the small minority
of poorly performing teachers and staff that seek the cloak
of protection under tenure law.

So that begs the question, does tenure really
protect teachers from favoritism and politics, or does it
protect ineffective and less competent teachers?
If we don't change our current tenure laws and
stop protecting incompetence, when do we put the children
first and protect their rights?

SENATOR RUIZ: Thank you very much for all of
your testimony, in particularly in making some -- really
drawing a full grasp of a picture of what happens in some
instances. And certainly indicating that it's -- it could
be a small group but precisely that, that when we engage in
these conversations, it is about supporting the great
teachers.

Thank you very much.

MR. LEE: Thank you.

SENATOR RUIZ: Next, I would like to invite
Mr. Patrick McGuinn, Associate Professor of Political
Science from Drew University; he will be followed by New
Jersey Principals and Supervisors Association.
And, again, I want to thank everybody for their
patience, I know that it's been a long morning and
afternoon.

And, Senator Allen, I know this was an added
person to speaker, and respect to you and also as to Drew
alum, we welcome your testimony.
PATRICK McGUINN: Thank you, Madam Chairwoman, you just stole my thunder there, I was going to note your affiliation with Drew, we are very proud of that. Thank you very much for the opportunity to testify before the Committee today. My comments are drawn from a report I prepared for the Center for American Progress earlier this year that surveyed the challenges surrounding existing teacher evaluation and tenure processes and state efforts to reform them around the country. I've submitted the complete report for your review. First bit of background. Obviously as has been mentioned today, tenure was first instituted in our own great State of New Jersey in 1909, and these tenure systems established a set of guidelines to protect teachers from the arbitrary, unfair, and often discriminatory dismissal practices that were common in local schools. While some due process protections remain necessary today, their expansion over time has made it so difficult and costly for districts to dismiss tenured teachers that they now rarely attempt to do so even when serious concerns about a teacher's effectiveness arise. Data from the U.S. Department of Education's 2007-2008 Schools and Staffing Survey revealed, that on average, districts nationwide and here in New Jersey dismiss or decline to renew only a handful of teachers for poor performance each year. The extremely low rates of dismissal for tenured teachers, and the fact that dismissal is generally pursued for egregious conduct violations rather than performance, mean the tenured teachers in most states enjoy the functional equivalence of employment for life. The norm across the country today is for teachers to be given tenure automatically after three years in the classroom, with no meaningful evaluation of their teaching effectiveness, and they are extremely unlikely to be fired during their career no matter how ineffective they are. This is the case in New Jersey as well. In 2009, the National Council on Teacher Quality, which is really the leading organization that studies these questions in the country, gave the State of New Jersey a grade of D plus for its policies on identifying and exiting ineffective teachers. Their analysis found that New Jersey "fails to make evidence of student learning the preponderant criterion in teacher evaluations, does not require any meaningful process to evaluate cumulative effectiveness in the classroom before teachers are awarded tenure, and lacks an efficient termination process for ineffective teachers." The failure to develop more effective teacher-evaluation and improvement programs, or to remove ineffective teachers from the classroom, has hampered the quest to improve academic performance and reduce racial and socioeconomic achievement gaps. A 2006 Brookings Institution report, for example,
concluded that, "schools could substantially increase student achievement by denying tenure to the least effective teachers."

And because our least effective teachers are concentrated in our high poverty schools, the cost of leaving them in the classroom has been borne disproportionately by our most disadvantaged students.

So what might be some policy alternatives to the current statute for the Committee to consider?

Well, the past year has witnessed a wide variety of teacher evaluation and tenure reforms around the country inspired in part by the Obama administration's Race to the Top grant competition.

Recent changes in Colorado, which we heard about earlier, Ohio, Delaware, and Washington, D.C. deserve particular attention.

The following list highlights a number of policy alternatives that have emerged from both the scholarly research and the efforts in other states.

First, improve the teacher evaluation system. This has been a recurring theme today.

To function effectively in identifying poorly performing teachers, both the tenure-granting and tenure-revocation processes ultimately depend on the underlying district teacher-evaluation systems, but these are also deeply flawed as the 2009 New Teacher Project report, The Widget Effect, documented. Again, we heard about that earlier.

The State must establish a more meaningful teacher evaluation system based on a clear definition of teacher effectiveness and provide resources to develop school districts' technical capacity to collect and analyze teacher effectiveness data.

In the absence of such a system it is very difficult for school officials to identify ineffective teachers, let alone assist them in improving or justify their dismissal.

Another option would be to improve teacher observational measures. Brief classroom observations by principals are currently the primary mechanism for evaluating teachers. But even AFT President Randi Weingarten has acknowledged that these systems are, in her words, "a perfunctory waste of time."

One promising new approach is the DC Impact System, which created a teaching and learning framework that consists of a set of 5 observational measures -- 3 by a building administrator and 2 by an outside master evaluator who is a subject-matter expert -- that scores teachers in 22 areas across 9 different categories. They've really systematized that process and made it more meaningful.

In addition, the State should look to explicitly link teacher evaluation and tenure to effectiveness in its statute. The teacher retention and
dismission decisions should incorporate teacher effectiveness data. Teacher effectiveness should be gauged through a multi-method, multi-measure process that incorporates student achievement information.

There is, as you've heard, considerable disagreement about the best way to measure student and teacher performance and, in particular, how much weight should be given to student scores on standardized achievement tests. But several states, notably Tennessee, have developed value-added or growth models that devote about half of the teacher effectiveness rating to student test scores.

Extend the length of the probationary period: The current time to tenure in New Jersey is three years, but research has indicated that this is an insufficient amount of time to gauge teacher effectiveness. The National Center for Teacher Quality recommends a minimum of five years, while Ohio recently moved to a seven-year timetable.

Enhanced mentoring and professional development: It's important to recognize that there are two very different ways to improve teacher quality: making ineffective teachers more effective and replacing ineffective teachers with more effective ones. Information from new evaluations should be used to identify teachers' particular strengths and weaknesses and develop more individualized and effective professional development programs. Ohio, for example, recently created a new four-year teacher residency program and multi-tiered licensing process with performance monitoring and mentoring by veteran teachers.

You've heard a lot about professional development here, but there are very different kinds of professional development, and I think the key to improving it is that it be data driven.

Streamline teacher dismissal process: The NJEA recently proposed moving teacher dismissal cases from Administrative Law judges to arbitrators, as Massachusetts has done. A reduction in the cost and duration of the teacher dismissal process, even absent under other changes, might make school leaders more willing to seek the removal of ineffective teachers than is currently the case. However, this step alone would not address the more fundamental problems in state teacher evaluation and tenure processes that make it difficult for school administrators to identify and document ineffective teachers.

Expand evaluation and accountability after tenure: Recent changes in Colorado and Delaware require that tenured teachers continue to receive effective ratings or risk dismissal. Another way to do this is to make demonstration of effectiveness a condition for the granting and renewal of a state teaching license.

Finally, connect to comprehensive teacher quality reforms: Improving the state's teacher evaluation and tenure processes are important steps, but enhancing teacher quality requires a broader reassessment of the way the state
recruits, trains, mentors, compensates and distributes teachers. Removing ineffective teachers without developing an expanded pool of effective teachers to replace them is unlikely to deliver desired improvements in education, particularly in the state's high poverty schools which already face staffing challenges. In conclusion, I would like to say that the establishment of annual standardized-testing and data-collection systems at the school, district and state levels in recent years has created an opportunity for policymakers to link teacher evaluations and tenure decisions to student performance in a way that previously was not possible. Policymakers should seize this moment to revisit teacher evaluation and tenure processes as part of a broader push to improve teacher quality and classroom instruction. Without such changes, the tremendous energy being invested in school reform here and across the country is likely to yield only limited gains in educational achievement. Thank you very much.

SENATOR ALLEN: Just a quick thank you for coming down here. I was told by someone involved in the teaching profession that yours -- or the National Center on Teacher Policies -- now where was it that you printed this? I'm sorry. The main piece that you printed out and have given us that I was able to locate on the Web just gave us so much information. And -- exactly. And your coming here and, kind of, putting everything in a more concise form -- very, very helpful, and I really appreciate your doing this.

MR. McGUINN: Happy to be here. Thank you very much.

SENATOR RUIZ: I, too, want to thank you for taking the time and spending your morning and the afternoon and for just, again, walking us through when we're having this conversation. I think that what has been most important today is that we're just not talking about it. People are presenting actual conclusions and presenting tangible ways where we can begin to, for me specifically, start forming the outline for improvement in the tenure process. So I just want to say thank you for sharing that. And I'm sure that many of us here on the Committee will be reaching out as well to continue our discussions as we move forward.

MR. McGUINN: Thank you, and I'm happy to provide any support I can to help. Thank you.

SENATOR RUIZ: Thank you.

Next, we'll hear from New Jersey Principals and Supervisors Association, followed by Garden State Coalition of Schools.

Thank you so much.

JoANN D. BARTOLETTI: Good afternoon.
I was going to say morning, but good afternoon, Chairwoman Ruiz and members of the Senate Education Committee. I am JoAnn Bartoletti; I am the executive director of the New Jersey Principals and Supervisors Association, a former teacher, assistant principal -- and was principal at West Windsor Plainsboro High School. With me today is Tim O'Halloran, who is the principal of Somerville High School, and David Nash, who is an NJPSA staff attorney.

Thank you for really being part of what is a conversation today. We truly appreciate that. NJPSA represents school leaders who are principals, assistant principals, supervisors across New Jersey, and it's our responsibility to observe and evaluate effectiveness of teachers and other school staff in our buildings. Actually, we are where the rubber meets the road.

We share this Committee's goals of ensuring teacher and leader quality in all New Jersey schools. And it's with that goal in mind that we share our perspective on the purpose and role and impact on the State's tenure laws.

Attached to our testimony is some background information about certification requirements for teachers and principals -- our tenure laws as well as our recommendations for some reform. In 1909 -- you've heard this before -- the Legislature recognized the need to take local politics out of the employment aspects of education to ensure that educational needs, not political goals, were the basis of educational decision making. Tenure rights for certified school employees were established. The fair dismissal protections of tenure empower principals to make the difficult choices in staff evaluation, policies and school vision necessary to achieve a long-term goal of school reform and achievement that we all share.

Tenure is a legal right to due process. And after earning the due process rights, the employee is entitled to a fair dismissal process, including a hearing if he or she is threatened with dismissal or non-renewal of a contract for cause.

Generally speaking, if the case does not settle in advance of a hearing, the tenure hearing process takes 10 to 12 months. In practice, because of the serious ramifications that may result from tenure charges, including the loss of or suspension of certification, the vast majority of matters that may rise to the level of tenure charges are
resolved before the charges are filed.
The Governor-elect Chris Christie’s Transition Committee on Education wrote in January of 2010, that, and I quote, “Rigorous, periodic post-tenure review should be standard, and the process of removal from tenure should be streamlined. Balancing employee protections and the need to ensure quality of instruction in schools, and there should be strict adherence to the six-month time frame for resolution of tenure charges from certification to a commissioner’s decision.”

The transition committee did not recommend eliminating tenure, but improving the process. Our association believes that this process can be further streamlined to promptly remove ineffective staff, and David Nash will briefly address that issue.

The attainment of tenure rights does not mean that the employee is no longer accountable for performance. School leaders have the responsibility of holding employees accountable for their performance, and we do this through annual performance evaluations, professional improvement plans, and mandatory, multi-year professional growth plans.

Teachers and school leaders are held responsible for school level achievement through local performance standards contained in the evaluation process, Federal and State performance monitoring and public reporting requirements. Educators who fail to perform to standard are subject to progressive disciplinary action such as the withholding of increments. As principal of West Windsor-Plainsboro High School, I withheld increments from ineffective teachers to force a change in their performance, and it worked. We acknowledge that such corrective action does not always occur, but effective management tools are in place and not too difficult to use. In practice, the key to effectiveness of our management and employment structure goes beyond the legal framework of tenure.

As an association, we acknowledge the real need for reform; the key area of teacher/leader evaluation, since evaluation practices vary widely across the state. With almost 600 operating school districts in the state, I would venture to say, that there are 600 models for evaluation, all of which are vastly different, from straight and narrative evaluations, which have somewhat -- are somewhat more subjective, to checklist, to a combination, or any other permutation of that. Such evaluations, if properly done, provide the information needed to improve performance or provide the evidence needed to remove ineffective staff within our fair dismissal system.

And I eagerly anticipate the recommendation for a new evaluation system that the Governor’s Education Evaluation Committee will provide us in March. And I do hope that the recommendations really become part of -- or those recommendations really are part of an ongoing conversation as opposed to a final recommendation.

Clearly, New Jersey needs a well-designed evaluation instrument that is fair, linked to best practices, incorporates professional standards, and addresses
educator performance data based on growth models. A standardized instrument based on professional practices will set a uniform and high-level standard for how we will view educator effectiveness statewide. This will not only assist us with local performance issues, but also help make decisions on teacher/leader distribution issues. It is the way we evaluate teachers and school leaders that needs reform, not tenure.

The Governor’s New Jersey Education Evaluation Committee faces challenges. It has to develop a solid evaluation instrument that incorporates performance data that has to be based upon the availability of consistent, timely and reliable data, a challenging -- a challenge that New Jersey has yet to concur.

It also must actively and collaboratively engage stakeholder groups who understand good teaching and leadership practices to develop the instrument. No stakeholder groups -- in fact, no school principal -- currently sits on the evaluation committee charged with developing this instrument.

It takes time to develop the instrument, to design the data sets, pilot the results and implement it statewide. The Task Force recommendations are due in March, three short months from now, and we hope the recommendations open up the kind of discourse that you, Senator Ruiz, have initiated today.

This really was a conversation today, and I do tell you that I am very appreciative of that. This is a complex undertaking, but worth the time to do it right.

We, at PSA, are committed to developing a fair and consistent statewide system evaluation. New Jersey is talking the talk, but we need to walk the walk on this key issue, and we urge the Legislature to have an involvement in this.

At this point, I'd like to have Tim O'Halloran talk with you a little bit about how evaluation works in practice at Somerville High School.

TIM O'HALLORAN: Good afternoon and thank you.

It was kind of fun to be in the back there and listen to all these recommendations coming from everybody across the country and to know that a lot of those recommendations we do in Somerville. And I'll take you through some of our evaluation process, but even some of the things that stretched, too, about shared decision making, about assessment, not just using standardized tests and using -- about using feedback, about looking at teachers’ evaluation on performance of their individual students in the classroom, we do. So I'm going to go back and give myself a little pat on the back and go back and tell my teachers and my staff what a great job they’re doing.

But I would like to thank you for the opportunity to share my experience as principal of Somerville High School on the issue of teacher and leader quality in the context of state tenure laws.

During my career, I have served as a teacher,
assistant principal both at the middle and high school level, and principal. I’ve also served as a member and past chair of the Professional Development Advisory Committee for School Leaders, which, basic -- from the beginning, from its inception, when it built the professional growth plan model -- and I also have been the past president of NJPSA. But I would like to use my time here to walk you through what we do in Somerville from the moment we hire a new teacher, to grow that teacher into one that you would want your child to have in the classroom. As principal for Somerville for the past 19 years, I have personally -- and I know that I look younger than that, but I have personally hired over 80 percent of our current student -- teaching staff. These teachers do an excellent job in teaching our students. I am proud to say I have not had to pursue tenure charges against a teacher during that time, but I have utilized progressive discipline tools when necessary to improve a teacher’s performance. Our district is committed to professional development of our staff at all stages of their career as the best investment we can make in our student's success within the confines of district finances. As principal, I understand the importance of hiring quality candidates and then helping these candidates succeed in the classroom. Recruitment and hiring is a high-stakes decision for my school. I do extensive screening and interviewing before selecting a candidate. And I’d just like to interject, we do use teachers in that process. Once hired, a teacher is immediately involved in training in our curriculum, district policies and the professional practices issues faced by first-year teachers. We hold an orientation program in the summer focused on classroom management, the use of data in instruction, local policies, grading and lesson design. And those -- that orientation program is, again, done by our teachers and some administration. Once the year begins, Somerville has established a Professional Development Academy where I, and my supervisory staff and teachers, provide ongoing workshops for the first-year teachers. It's a lot of dialogue and a lot of sharing. I do want to interject there, that our -- all our teachers have a common prep period, so our English teachers are all off the same period so they can share. And not just work with the mentor, but all teachers. It's very similar to a middle school model that I instituted about 12 years ago. I had some people didn't like it, but -- SENATOR RUIZ: Do you have that in the -- in every -- MR. O’HALLORAN: Every discipline. Every discipline, yes. We also match up not just the novice teacher to the profession, but all new teachers in the district,
regardless of the years of teaching.

So if I'm bringing in a new teacher who is experienced, they're still going to get a mentor, because they need to know about the culture of our building and what our practices are, and we support that new teacher in his -- his or her practice.

Mentors meet with these teachers on a regular basis during common prep periods and also during that common department meeting as well as after school to answer questions and provide peer feedback. The mentor supervisor director of Curriculum Instruction also reviews a new topic each month during those meetings.

I personally oversee this process, and there is a good reason why. I want the best and the brightest teachers working with my students. It takes a real investment of time, experience and training to develop any new teacher in a district, even those who have extensive classroom practice or experience. Additionally, under our state tenure laws, I must make a decision about their continued employment of this teacher into the future.

Support does not cease going into the second year. We continue to provide ongoing support and professional development to enhance their skills and achieve school goals. Under our laws, I must observe and evaluate this teacher a minimum of three times a year during the non-tenure period, but I may do more if needed. And we do that. We do what we call walk-throughs, which you've heard earlier, as well as meetings, personal meetings, with me to develop any areas of concern or accommodations.

At the end of the year on the job, I must make a recommendation to the superintendent on whether we should continue to employ this teacher. The recommendation becomes even more important by year three, after which they have the right to due process upon dismissal.

During my career, there have been many incidents when I have let staff go during this pre-tenured period because they were not providing the education our students deserve. Regardless of whether this occurred within months of hiring or several years, if an individual does not belong in the classroom, I can't and won't allow them to continue to be there. That is my professional, but also my personal responsibility to my students.

But in my experience, the current three-year time frame to make this high-stakes decision is appropriate.

I've a good sense of whether a teacher has what it takes to be a good teacher after his or her first year on the job. By the end of the second year, I've given the teacher notice of areas that need improvement, the tools to improve and the chance to do so. By the end of the third year, I am confident in my recommendation. Discussions with my -- with fellow principals indicate that my approach is common practice in
Once our teachers attain tenure rights, they continue to be accountable for their performance. Educators have an ongoing responsibility to grow as professionals. It is why we invest in professional learning communities, multi -- mandatory, multi-year professional growth plans, professional improvement plans and annual performance evaluations.

I'd just like to interject there, even in our staff development, when we do our staff development, it's building based. Our teachers are taught cross-curricular. I provide that opportunity as well there. Our assessments are not just standardized tests or tests, they're authentic assessments.

SENATOR RUIZ: And all this is being done during the school day?

MR. O'HALLORAN: The Professional Development opportunities --

SENATOR RUIZ: During the day?

MR. O'HALLORAN: We also have Professional Development Academy, which we do after school, which is, our teachers teach teachers. We also use train the train model which -- for example, we just had a training after school for two hours on a new program that we're putting in, cross-curricular -- every department was represented -- multi. They're actually going back -- in fact, the greatest experience that I had was when a teacher came to me yesterday and said, Tim, I have an off period, too, would you mind if I met with this teacher to go over it? And I said, no. So she went -- she wanted to help this teacher, because this teacher was going to be working with her, with these students in a -- in an extension program that we also have for our at-risk students. So it's just -- it's that common collaborative effort.

SENATOR RUIZ: Do you have an extended day at the school as well, it sounds like?

MR. O'HALLORAN: Yes. Yes.

SENATOR RUIZ: A learning extension.

MR. O'HALLORAN: We have our media center opened after school for students who want help -- at risk -- if they need it, just to go there to have quiet study time if they don't have it, plus we open a half hour before school, -- we call it the homework, where teachers --

SENATOR RUIZ: I'm just lobbying for a pitch for longer school day, longer school year.

MR. O'HALLORAN: I didn't say that.

SENATOR RUIZ: No. I did.

MR. O'HALLORAN: I know.

Educators who fail to perform to standards are subject to progressive disciplinary actions, such as the withholding of increments, demotions, suspensions or misconduct, or even removal, if appropriate.

As a principal, I've had to threaten the
withholding of an increment. I haven’t got to that point to
force a change in performance, but I’m happy to say we’ve
worked through whatever the issue was and better teaching
resulted.

Effective management tools are in place and are
regularly used. The key is to having the data in order to
make an informed decision. I have the benefit of a data management system
that provides me up to the minute information on student
performance. We can examine student performance data as
part of the evaluative process and the observation process,
and the process drives performance improvement for
our teachers. We have a standard rubric which details
indicators for categories which include: instruction,
interpersonal skills, professional development and content
knowledge. Again, you heard a lot of that today.

For tenured teachers that are struggling, I, along
with the teacher’s supervisor, provide feedback and support
on a regular basis. Such a robust evaluation system ensures
teacher educators and better outcomes for kids, and it’s what
we should have statewide to ensure that our student --
teachers receive the support that they need to grow.

This type of evaluation system also provides us
with comprehensive and ready evidence if an
educator remains ineffective and we have to seek dismissal.
A statewide education evaluation system is the most critical
reform that can be enacted to improve teacher quality and
remove ineffective teachers. It is also -- it also
appropriately addresses claims about the burdensome nature
of filing tenure charges.

Under this form of evaluation system,
administrators will have an ongoing record of staff
performance that is well documented, based on professional
standards and performance data, and has provided the
individual with notice and the chance to improve. It will
be much easier to move forward to formal tenure charges if
circumstances warrant it.

Thank you.

SENATOR RUIZ: Thank you very much.

DAVID NASH, ESQ: Thank you, Madam Chairperson and
members of the Committee; and my name again is David Nash.
I’m a staff attorney with the New Jersey Principals and
Supervisors Association, and my primary role with the
Association is to represent school administrators when legal
matters arise related to their employment. We do have three
attorneys on our staff who perform a similar function.
I want to begin by stressing that NJPSA, for
many years, has supported tenure reform. We were a
leader in the movement in the 1990s, to support tenure
reform. And in fact, in 1998, New Jersey did enact a
reform that improved the process. We recognize that we
need further improvements to the process.

One of the concerns that we have had since 1998
was that the State of New Jersey never fully implemented
the reforms that we recommended at that time. Since 1998, we have seen, unfortunately, a
decrease in the number of Administrative Law Judges that we have in the State of New Jersey while their workload is increased. We recommended, with the Tenure Reform Act, that New Jersey have Administrative Law Judges who are specialized and focused specifically on hearing tenure cases.

We do believe that if that reform were implemented and there is a similar model in place for handling other types of cases, for example, environmental cases have specialized judges that focus in that area, that would improve the system and that would allow the process to move faster. We are open to other avenues for streamlining the tenure charge process. We do believe that process does need to be streamlined. We do believe that a major impediment to tenure charges currently being filed is that school districts are concerned about the cost and the time involved in that process. And we welcome the opportunity to explore other avenues for streamlining the process. And you have heard some ideas along those lines.

I do want to stress, though, I have seen first hand in my role that there is a critical need to have due process protections in place for both teachers and school administrators. The New Jersey system establishes a process where you have to show either conduct unbecoming, inefficiency, other just cause or incapacity. The New Jersey standard is a standard where all the school district needs to show is a preponderance of the credible evidence. That means, more evidence than not -- 51 percent of the evidence to show that the tenure charges are charges that can be supported. We're not in a system where we have a criminal standard where you need to prove beyond a reasonable doubt in order to have charges sustained. So the legal standard that is established is a reasonable standard of proof that we ask in order to terminate a school professional's career. And we believe that it's appropriate to have a due process standard in place along those lines.

Unfortunately, while there are horror stories that we have heard about teachers and others in the schools and the tenure process that needs to be followed, unfortunately, there are also horror stories about tenure charges that were filed that were completely unjustified. And individuals, both teachers and administrators who did nothing wrong and were subjected to tenure charges -- and if there were not a due process system in place, would have been unfairly let go. And we're very concerned that without some due process procedure, we would have that same kind of issue occurring over and over again.

New Jersey has in place a School Ethics Act that we put in place in 2001. There have been a significant number of reported cases where there have been real ethical concerns that have been raised. And I can tell you, that there are many cases where nobody is courageous enough to file the School Ethics Complaint. So there are certainly other areas where politics
has entered the process, and there has to be some protection for the employee to make sure that we are making decisions for educational reasons and not for inappropriate reasons. We do share the concern over the lack of a clear, consistent evaluation process. We are very supportive of having the State develop a clear set of evaluation standards that can be implemented statewide. Our belief is that one of the reasons we have not had more tenure cases of inefficiency is that we don't have a clear set of standards for school districts to follow. We have had, really, a changing, shifting sands when it comes to student evaluation. Every couple of years we have some major changes in the student assessment system that have not allowed us to track over time whether students are improving or not, and to use that as one of the measures for improvement for educators in the school system. We have had a system where superintendents are now constantly changing since the elimination of tenure for superintendents. And with those changes and leadership at the top, there are new priorities that come into play, and new evaluation systems that are being put into place in school districts across the state. Having a uniformed approach on that issue, I think, will go a long way. You've heard earlier today from some testifying that the number of tenure cases that we talked about -- 35 in 2008 -- really is a misleading number. The vast majority of cases where there is the potential for tenure charges are resolved prior to the board formally certifying tenure charges. One of the reasons for that, frankly, is, that once tenure charges are certified, it becomes almost impossible to settle a case. The State of New Jersey has set up a system where, if the parties agree to settle a case involving tenure charges, that case still must go to the State Board of Examiners. And in almost every case, we end up having a full hearing anyway. So the parties involved have no real incentive to look to settle these cases once tenure charges are certified. So I would say that it's misleading to think that we don't have these cases being resolved if we corrected that technical flaw in the process. We could, perhaps, resolve some more of those cases before reaching the final resolution. We do have other forms of employee discipline that we also do impose regularly in the State of New Jersey. One of the things that we need to recognize is, that increment withholding is something that can happen and does happen when you have teachers or administrators who are performing poorly. And, frankly, the standard is one that is not very difficult for a school district to achieve. If the school district can demonstrate that an employee's performance is not what it should be and the school employee can't prove that the decision was completely arbitrary and capricious, it's
upheld. And the increment of an employee is withheld. And
that is an effective tool that many school districts do use
when they have an employee who is not performing at level.
Let me just stress again that we are very open to
streamlining and reforming the process. We believe the
fundamental flaw is the cost and the time. We did support
reforms to begin that process a number of years ago, and we
would welcome the chance to further streamline the process,
But we do not want to see the loss of some due process protection.

SENATOR RUIZ: Thank you.

SENATOR ALLEN: Thank you. Mr. Nash, I wanted to ask you, you
were saying that you folks suggested at some point in the
past, that an Administrative Law Judge would just deal
with these issues; what do you think about the NJEA’s
proposal of having it go to arbitration instead of to a judge?

MR. NASH: The proposal for arbitration is an
interesting proposal that we, as an association, are in the
process of examining. There could be some real potential
for streamlining the process, and we are open to looking
at other alternatives to streamline the process. So that
is certainly one that is worthy of consideration and study.

SENATOR ALLEN: Good.

And Mr. O’Halloran, you said that -- by the way,
I like what you gave us, it sounds like you're very involved
and really making a difference, but we've heard from so many
people, both here and I think as we go -- have gone around
as members of this Committee talking with teachers and so on.
I have quite a few of them who've come into my office and spoken
to me, that perhaps your approach is not common practice. Now
you say you've talked with a lot of principals and you think it
is, but I hear from a lot of people that they don't feel like
they get the support, that they don't feel like -- that they
have somebody who's really doing the same job that
you indicate you are doing, and that I think it sounds
very good.

So I guess my question is, are you just talking
to principals who think the way you do? Are you really
talking to a wide range of them, or do you think that it
is very possible that, in fact, your approach isn't as
common a practice as maybe you first thought?

MR. O’HALLORAN: I would like to think it's more
common than not, yes. I understand those districts -- and
it's not for a variety of reasons, maybe it's financial,
they can't put -- maybe they've had a change in
administration multiple times, and we know that -- I've
been in 19 years, my superintendent who just retired
last year was there for 20 years, so we're able to sustain
a growth in programs and have a shared vision for our
district, but also at our building level.

Again, hiring 80 people, to -- 80 percent
of the staff, it's a little over that now, because I just
hired somebody two days ago -- it also helps, because I've
hired people who share my vision, okay, and have --
and I worked with them. So we have a commitment to
The colleagues I'm talking about, and I
serve, as I said, past president of New Jersey Principals
and Supervisors Association-- I have been across the state, and
I got an opportunity to see a lot of different things. So
it's out there -- maybe not to the extent that we're doing it,
but components of it. It's -- I don't think it's for a
lack of -- of not wanting to do it. I think sometimes
there's impediments to it.

SENATOR ALLEN: I'm not suggesting that it's for a
lack of not wanting to do it, I'm just questioning whether
it's really there at the level that you might have
indicated.

You also said that your teachers work with you
when you hire; how prevalent is that?

MR. O'HALLORAN: They sit -- during an
interview, I try to get somebody who is in the content area, have the
content.
I mean, I taught math when I was a high school teacher, but, I mean, obviously, if I have
somebody coming in for a French position and I want content,
I need to have somebody there that can speak the language. So I do -- I make that a regular
practice.

We also do-- One of the staff, we have them go
in the classroom of the teacher -- like I had this particular
replacement, I could do it right now. I had them go in and
teach, do a demonstration lesson.
And, so -- and the teacher sat in there and we got
feedback from that teacher. I had an administrative intern
who is a teacher, who also sat in there as well as the
administration and gave us -- and I'm very honest with you,
went through the first round of interviews -- some very --
on paper they looked great, even in the interview process
they talked a good game, but I put them in front of students
and it was -- I could just tell, you know, I've been doing
this pretty long, and I could just -- you know, that gut
feeling, things that they weren't doing -- I just didn't
feel they were right for our students. I'm not going to
subject my students to that. We'll put an alternative
plan in. We're going to have our regular teachers pick
up an extra class just so that we can -- until we can
find -- luckily for me, the second-round of interviews, the
can -- the finalist, who's now going to assume the
position Monday, went in that classroom and was able to
demonstrate performance.
So I involve the staff as much as possible.
Ultimately, it's my decision, you know, and -- but they're
part of the process. There's a multi-tier interview
process, ultimately, with the superintendent.

SENATOR RUIZ: Thank you.

MS. BARTOLETTI: Madam Chairperson, if I might, I
believe that there are places in New Jersey where principals
do not make decisions with regard to teachers that they
are -- that are being employed to work in their own schools. So there's a general evaluation, you
know, an
interview process, and then teachers are assigned to schools. So in, I think, too many places principals are absent and teachers are absent from that decision-making process, because it's done on another level completely.

SENATOR RUIZ: I agree. And there are schools that, whether it's -- they're assigned or unassigned, principals take ownership of the building, and the success that you're talking about, of really accepting the responsibility and going above and beyond even if, per se, it goes outside of policy that they're doing it with the best intentions to hire the best personnel and really have excellence in education.

So I just want to thank you.

MS. BARTOLETTI: Thank you.

MR. NASH: Thank you.

SENATOR RUIZ: Next, we'll hear from Lynne Strickland, followed by New Jersey Education Association -- oh -- School Board Association, my apologies.

And we're almost, almost--

Whenever you're ready.

LYNNE STRICKLAND: Good afternoon; and I am ready and my promise to you --

SENATOR RUIZ: Thank you for your patience.

MS. STRICKLAND: -- is, that I'll be quick.

SENATOR RUIZ: Thank you.

MS. STRICKLAND: And I promise the New Jersey School Boards as well, as they've been waiting patiently.

At any rate, I also -- my name is Lynne Strickland; I'm executive director of the Garden State Coalition, and I appreciate the opportunity to speak to you all today on this important subject of tenure reform.

I did want to tell you that I had Betsy Ginsberg with me, who is a parent and board president of Glen Ridge and on our board. She had to go home. Her testimony is included with mine, but she was going to speak --

SENATOR RUIZ: Thank you, Betsy, if you're listening. Thank you.

MS. STRICKLAND: I'll tell her that you said that.

Going right to the chase, Garden State Coalition believes that tenure reform is an integral and very important part of moving quality education ahead in New Jersey's public schools.

Tenure reform is also complex and we recognize there are many relevant issues. We are pleased that the conversation has begun and we submit our initial thoughts on this important discussion.

First off, there is consensus at our table that tenure should be extended to five years plus a day.

Many districts make tenure decisions within a two-year window. All parties would benefit from this extension of time to five years and a day.

Evaluations are allotted more time, and thus can follow a teacher's progress in depth and in a variety of situations.

Teachers are given more time to garner more
experience and demonstrate progress as well. The degree of predictability of teachers’ long-term prognosis in the profession is directly related to the period of time non-tenured employees work before they're eligible for tenure. The longer an employer has to make this decision, the more information, naturally, becomes available for the employer to factor into the decision. Extending the time frame for tenure could also give the school district the opportunity to see a teacher work in more than one type of instructional venue. And courts have recently upheld tenure for teachers who actually work less time than three years and a day. This has happened when teachers have taken leaves or have been out on worker’s compensation. Extending the time to acquire tenure would also give the district greater flexibility in deciding the teacher's eligibility in these kinds of circumstances. Another thing that has come up at our board table and, interestingly enough, there seems to be consensus on this as an alternative -- which is a renewable contract option, which you already heard people speak about. One of the reasons many believe that the five-year contract is a legitimate answer to the question of tenure is because the fair dismissal procedures do not allow discrimination based on age, salary or other criteria. That is not a valuative. Teacher evaluations, obviously -- and you've heard this in depth today as well -- they're critical, and we believe in that, too, and we believe they need to be based on a range of items, including teacher creativity and student engagement, in subject matter and not just test scores alone. The arbitration question, I just want to mention that for a moment, has a -- I got a bunch of calls as soon as that came out, people are concerned about it. So we believe it needs an in-depth analysis. Others in states where arbitration is the practice are not positive about the results. I mean, I got two phone calls from people who used to be members of Garden State that now work in Pennsylvania. In fact, when you see the results of decisions going the way of 50/50 -- and this is one thing that's occurred in Pennsylvania, it's occurring in Massachusetts as well -- we're concerned that the even distribution indicates a system that responds more to job security than to the individual situations that occur in a district. I want to just close with Betsy's words here about any system of tenure and evaluation must provide teachers with enough job security and protection so the bright, creative young people will want to enter the career field. Right now, that is one of the great problems in education. Teaching is often viewed as uninspiring at this time, and now, with the amped up rhetoric, the focus is almost exclusively on "bad teachers," quote, unquote. There is even less incentive for bright students to enter the field. Now is the time to change the tenure and substance
of public conversations about teacher tenor and evaluation
and address these important subjects in a constructive,
non-pejorative way.

That's it. Thank you very much.

SENATOR RUIZ: Thank you very much. Thank
you for spending your day with us.

Next, we have New Jersey School Boards Association,
President Wiss.

Thank you for your patience.

RAYMOND R. WISS: Madam Chair, Committee members, thank
you for putting in a long day on a very, very important issue. I'm
Ray Wiss, the president of the New Jersey School Boards
Association, and I serve on the Northern Valley Regional
Board of Education in Bergen County. I'm a former member
of the Old Tappan Board of Education and a former mayor
of my community.

At the outset, I want to add the Association's
commendations to the Committee for taking this amount of
time on a very, very important issue. And I think
you can tell by both the breadth of the participation and
the dialogue that's been engendered, that this is something
that is an issue that has long awaited a focus, and there
couldn't be a more critical time, particularly from a school
board member's perspective, and hopefully I add that to
the dialogue that's taking place here today.

I do want to digress for one second to a
discussion that arose during the Newark
representatives and Senator Allen. I think as school
board members, we're very much aware that we are not
professional educators. For that reason, your intercession
and your assistance in defining a system that can function
well and give us the tools that we need to add and then --
after all, we are the local voice that adds the community
priorities and aspirations to the dialogue and the
implementation of the system that you devise.

So we're very much dependent on discussions like
this, and obviously on the resultant product. And,
hopefully, as I go through my comments, I'll explain a
little bit about how the current system is not only perplexing,
but problematic for a local school board member.

With more than 18 years of experience on a local
board of education, we agree with some of the comments and
would echo the fact that there's nothing more critical
to student success than highly qualified and dedicated
teachers.

In my district, we consist of two Blue Ribbon high
schools serving seven communities, and certainly the
educational attainment that we've had has been due to the
dedication and excellence of our teachers. However, the -- our system, as well as public
education in New Jersey, has succeeded in
spite of, and not because of the tenure system. In elementary and secondary public education,
tenure does not exist to preserve academic freedom or to
advance knowledge, it merely serves as lifetime job
protection.
And I do want to respectfully disagree with our colleagues from NJEA. While the current system may not be de jure protection for life of a job, de facto it is. And I think the statistics you’ve seen today from many of the people who’ve testified bear out that fact.

Unless we’re willing to accept encompassing systemic changes, including eliminating lifetime tenure, the quality of our schools will be difficult to maintain, to say nothing of trying to move ahead, which obviously is the goal of all of us. All elements of our educational community, students, educators, parents and the community that supports us -- and after all -- they’re the ones who vote on our school budgets, have much to gain from eliminating a century-old system that has long since outlived its purpose.

I think one of the things that perhaps you can focus on is the fact that the environment that exists today for a teacher is much different than the environment that led to the adoption of tenure more than a century ago. We have a growing body of statutes, regulations, court decisions that have strengthened employees’ protections against arbitrary dismissal and discrimination. In addition, the collective bargaining process provides vast protection to our employees in terms of working conditions, disciplinary procedures, and grievance arbitration. And obviously none of that was even a glimmer in the eye of your legislative colleagues a century ago. None of that even existed.

More recently, the School Ethics Act, the School District Accountability Act and related regulations have added safeguards against patronage hiring and nepotism. And in spite of these legal and statutory safeguards, the current system of lifetime tenure makes it difficult, costly and time-consuming to remove an ineffective teacher from the classroom, and it’s a level of job security that’s unheard of and unparalleled in any other profession, business or occupation.

There was a reference -- and I think the Chair had posed this question earlier -- to why so few proceedings? And let me go through that, at least from a board member's perspective.

Statistically -- and I guess it was Mark Twain who said, there are lies, damned lies, and statistics, and obviously you’ve heard a lot of statistics today, but statistically it does bear out the fact that from January 2009 through June of 2010, there are only 29 tenure decisions. Of these, only one case involves charges of inefficiency.

And I think that is a telling statistic. And as was pointed out before, NJEA boasts 129,000 full-time teaching members in New Jersey. One tenure proceeding based on inefficiency that went to closure. I think that one of the reasons that there are so few -- going back to the question that was posed -- is the process itself. And whether the figure is nine
months or we would take it more at one year, it is a lengthy, cumbersome procedure.

Some suggestions have been made by way of whether a substitution could be made for an arbitrator in lieu of an Administrative Law judge. I think you're only talking about a change in the decision maker. The key is for you to embrace systemic changes that will expedite the process both in terms of timeline and its economic efficiencies. It isn't ultimately the decision maker that's the problem here; it's the process that leads us to the decision maker. We can't get to him or her early enough or without encompassing very expensive costs. Apart from the fact that it takes a year for the process to reach culmination, the economic impact can be rather stark. The $100,000 case is not the anomaly; it is something that school districts confront, and there is something that has been added to all of our repertoires more recently, and that is the two percent hard cap. So you can guess that this type of an issue is all the more impactful on the local school district in terms of incurring additional attorneys' fees and costs. On top of that, we've got 120 days after which we are -- during which we're making payments and, also we're hiring substitutes, we're incurring costs beyond just the legal expenses and that is problematic in this environment when we're trying to preserve positions and preserve the curriculum. And after all, our product is delivering an education to our students. So this is a very thorny issue for a board of education member. I would dare say that if you asked any local board of education member whether the current process works and is sustainable, the answer would be a resounding no.

Let me share something from our perspective in terms of the type of system that we would envision going forward, and I think some of the other speakers have already talked to some of these issues, but I do want to note -- and I guess everyone is, you know, seeking credit for having been aboard this issue earlier -- New Jersey School Boards Association has had published policy on this very issue since the Ford Administration, and it's great, and that's why I said, at the outset, it's great to see this Committee putting its arms around this issue and finally addressing it.

From our vantage point, we think that the issues or the elements of the program that will be effective is, that we need to replace lifetime statutory tenure with a system of renewable employment contracts with continuation based only on effective performance. Such a system would enable the local school district to hold staff accountable for ongoing effective performance. And the professional educators have again and again used those terms this morning in describing to you what type of process should be built. We would suggest contract terms of between three and five years, and throughout this period teachers would undergo objective performance evaluations. And obviously, the devil will be in the details.
as you seek to define what those evaluations are and what is included in that process.

And I think you have a host of professional educator resources that you've heard from today. But based on the results, the school administration would recommend continuation of tenure and employment. And that's contractual tenure, cyclical three or five-year contracts. For new employees, contractual tenure would initially be provided upon five years of satisfactory performance. That is a series of five, one-year contracts.

And, again, some respectful disagreement with NJEA when it was suggested that right now we have one-year contracts, why do we want five-year contracts? I don't think that they were suggesting that after tenure is afforded to someone, that school district really has a series of one-year contracts. We have a lifetime employee. I mean, that is the fact of the system.

The process that I've outlined would ensure the careful consideration of a staff member's performance in decisions that affect his or her employment status. And that's really no different than how employment works in the rest of the world. Technically changing the lifetime tenure system, which has been part of the culture of schools for quite a long time, could be accomplished by your simply passing legislation. And I, for one, am pleased to see that that's not the way the Committee has embarked on this process. A change of this magnitude does require that all work together. It needs the confidence of the teachers who will have to live under the new system it needs the support of the supervisors who will make critical employment recommendations. Therefore, we need to take the process further by creating a very fair evaluative process that accurately measures job performance and can be used in determining the retention of a teacher in making employment decisions. It has to be tied to academic progress of students based on several measures, and we would suggest it has to include test results, but, obviously, it can't be exclusively based on test results. It must also accommodate the goals of a local school district.

I think it was mentioned earlier when Senator Whelan was here that our communities are different. There are different priorities; there are different aspirations. And as I said to you before, it's one of the functions that I think that we take most near and dear to our hearts as local school board members -- is factoring in those local priorities into our decision-making process under the rules that you give us.

As New Jersey seriously considers this long overdue reform, keep in mind that schools exist for our students, not for the adults who work in them. Eliminating lifetime tenure will ensure that our public school system succeeds in its missions.

And I thank you for this opportunity.
MR. WISS: And, obviously, the Association is always there as a resource, Senator.

SENATOR ALLEN: Who do you think should be involved in hiring the teachers?

MR. WISS: I think the collaborative process -- and it is the process that I know in my district works best. What we do is have a combination of the superintendent and the building principal. And you've heard a lot of data about successful schools derive a lot of their success from the principal level. We use the modeling aspect where a perspective hiree comes in, and we have a Department chair format, so the superintendent and principal and the Department chair are all part of the assessment process of a would-be hire. It gives us the broadest opportunity because -- keep in mind, and this goes back to, again, the dialogue with the Newark representatives -- one of school board's precepts is to make sure that the schools are well run, not to run schools. So accordingly, we have to give, as lay board members, tremendous discretion to our educational professionals in terms of their recommendations to us.

So obviously, if that recommendation comes with a broader support and has a broader (indiscernible) participation, it's an easier decision for us to accept and endorse. So I think that my experience tells me that the teacher input, the principal input, the supervisor, the superintendent's input is all very, very important.

SENATOR ALLEN: Should the principal have an ultimate yea or nay?

MR. WISS: Well, I guess ultimately the way things exist is that the board makes the decisions based on the recommendations we receive. And as I said, that is part of what I think is the difference process.

I don't think we've ever had a situation, and it may speak to the level of a candidacy, if a -- if someone was put forward where we had a superintendent saying, no, and a building principal saying yea.

Likewise, I think that would be problematic as you assess the tenure prospect, which is why I think that the breadth of participation -- I think this is implicit in your question -- is very, very important, because then, obviously, we know why that recommendation comes to us and who had input into it.

And I will say something else that I think relates to the same lines. Certain testimony before talked about the type of recommendations that come to the board based on evaluations. The current process in terms of board-making decisions is very problematic because, when you get recommendations that are subjective in nature rather than objectified and they are by and large good or excellent, it becomes very, very hard for a local decision maker to make a quality decision. If all you get are good or excellent and there is no way of objectively validating that recommendation, while I want to give deference to a decision, if I can't see the bona fides or
the pedigree of that decision, it's very hard.

SENATOR ALLEN: Thank you.

SENATOR RUIZ: Thank you, Mr. Wiss. Thank you very much.

And last, but certainly not least, I want to thank both Mr. Wayne Eastman and Superintendent Brian Osborne from the South Orange-Maplewood School District. And for those listening and for Senator Allen and members of the Committee, South Orange-Maplewood is a unique district in Essex County in the State of New Jersey.

They're already a consolidated district. They're a district that has -- or been undergoing very progressive actions, and not from a standpoint of policy driven, but from an administrative-driven course.

So I wanted to thank you for spending your entire day with us, and for closing us out on this topic of great magnitude and to really tell us, because I know that there are things that perhaps you will be launching soon because you're looking at doing things from a contractual perspective.

BRIAN OSBORNE: Yes. We're in negotiations right now, so...

SENATOR RUIZ: Oh, we're not going to talk about it, then.

MR. OSBORNE: That's the one -- that's the one question --

SENATOR RUIZ: Okay. We're not going to talk about it.

MR. OSBORNE: -- that I can't answer, but we will answer as much as we can, and thanks for having us.

Mr. Eastman.

WAYNE EASTMAN: Okay. It's been a long day and I've got an exam to give back in Rutgers Business School in less time than I wish I were scheduled for, so I'm going to try not to take up too much of your time.

You know, if we had value it's that we've got a combination here of an elected, you know, official, a school board member. I am here as a volunteer citizen activist who happens to wear a couple other hats, as I'll describe briefly, with our chief administrator, you know. It really can't be one or the other, you know. You need the activists, you need the people who say whether it's activists in public policy, in legislatures, who say, hey, a system is broken, we've got to change it. And then we really also need the good people and the great people within our public schools to make the whole system work to some fair degree. I think that we've got that pride in a lot of the people that we got in public school, in administration and in teaching in New Jersey right now.

In other words, if I had a difference of nuance with some of the testimony it might suggest, do we need to take any action on this issue of tenure to get some super-duper statewide mandated system with the exact percentages of this, that and the other thing? No, is my
quick answer. You can do a whole lot to open up the system
and make it work better.

As much as I deeply am sympathetic to, let's say,
Senator Johnston's discussion of the elaborate legislation
advancing in Colorado relating to percentages, relating to
ineffectiveness over certain numbers of years -- and absolutely

think that model should be considered along with others
by our State. I want to propose a really crisp, short and simple
set of legislative changes that are very consistent with the
number you've heard already. In other words, it's a big process, but it can
also be tackled in a pretty direct way.

On this, I've received the assistance of our
excellent Board Counsel, Jessica DeKoninck. I know
you have excellent drafters here, but, you know, in the nut
shell I think of some progress you can make. We got three proposals. One of them we heard a
lot about, that is the idea of five years, the South
Orange-Maplewood proposal. And, no, it's not unique. Good
ideas come from different places. That's the way the world
is.

SENATOR RUIZ: Hey, I thought maybe that was
my proposal, now it's South Orange's.

MR. EASTMAN: Oh, it's Senator Ruiz's proposal. I
changed the name of it. I changed the name of it. Anyway,
Senator Ruiz's proposal.

SENATOR RUIZ: No. I don't have a proposal
and let's not alert everybody. I don't have anything
written.

MR. EASTMAN: No -- no prior agenda on the part of
the Senators.

But we do have an agenda in a sense, that like a
number of the people who have spoken, like our counterparts --
my counterparts in the School Board Association, that
South Orange-Maplewood proposal as drafted by Jessica,
backstopped by me based on one of my other hats. I used to
be a business lawyer. I teach business law and business
ethics at Rutgers Business School.

It starts with the idea of five years probationary
period, and then no lifetime guarantees. That is what
it really is. And I can tell you the war story in a
minute if you want to hear it. No lifetime guarantees,
five-year renewable. And let's be clear what that means. You know,
five-year renewable; at the end of that five years there is
no guaranteed hearing the way that you got to have now.
It's real, that you got to earn it again. You know, Jessica DeKoninck's language is pretty
clear on that, you know.

So we're talking real systemic change. That's
big, it's real, and it's right.

I should say something. By the way, in the
interest of full disclosure, am I a tenured professor
myself? You bet I am.

The legal context is very different. We're
talking K-12, we're talking legislation that applies to
K-12. There is a state mandate of tenure, as we all know,
for K-12. At the university higher ed level --Rutgers and other schools -- even if you're a state school, it's done, as I understand it, through institutional choice. You know, you have negotiations, you have institutions making their own choices.

But that all said, yep. I think that it would be an excellent idea to have me and my colleagues evaluated on a five-year cycle as well. As much as there are many other differences, and as much as we're talking about K-12 -- I just want to be honest about that, you know, because it's a big system. Public K-12 and higher ed go together. We're one team.

I'm really proud, as a number of people have said here already, about some of the accomplishments of education in New Jersey and in our country, more broadly. We should really be deeply concerned about things like the PISA scores that show our students lagging -- students in Korea, Singapore, Finland, now the other day Shanghai, yes. We should really be concerned. We should really be concerned about deep, apparently intractable achievement gaps by race and ethnicity. But there are some things to be really proud about in our state and in our country. I think we really do develop in our public schools as well as, yes, the higher ed system that I'm part of that, I grew out of -- New Jersey public education.

You know, there is a culture of support for speaking up, for innovating, for looking for new ideas. There are some things that are great about education in this country and in this state. Let's be proud even as, yes, let's change the system.

So the big changes are what? Yep, five-year renewable. We should really do it, okay.

We have some suggestions of nuance on the issue of administrative tenure. We believe -- our group, our lobbying group on the board -- there really is a difference between teachers and administrators. That is our proposal -- proposes for retention of tenure for teachers with this five year. You know it's for five years, though, not for a lifetime. For administrators, no. I really do think that it's different. You're a high-ranking person.

I used to be a labor lawyer, National Labor Relations Board; do you have a right to collectively bargain even if you're a hire/fire high-level manager in the private sector? No way. Our whole setup in education is anomalous in which high level -- and this I fully respect, we're not talking collective bargaining rights, this is about tenure, but the tenure situation for high-level people so our superintendent, you know, your -- that's there. They're your team, but, no, they're not your team under the current set up. I fully respect, by the way, that the proposal made by NJASA would go -- you know, whether, you know, I would differ with them on "tenure" for superintendents. I think it's a bit technical. I don't want to say Superintendent Osborne is going to be with me 100 percent on
some of this.

MR. OSBORNE: Board member and superintendent. We don't need to agree on every --

MR. EASTMAN: Creative tension. Creative tension along with strong teamwork to make things work, policy governs. We respect the superintendent just the way the excellent statement by the NJSBA president indicated, okay.

So how is this going to work in terms of, you know, making the system effective?

The last point I want to bring up -- I don't want to harp on the tenure for principals and administrators point.

I differ from NJASA and what I thought was an excellent presentation otherwise. I think that's pretty technical, because its district and the administrator will be able to enter into a three or five-year just cause contract. Fine. I think that's the appropriate way to do it, not to mandate state

There's a third point that I really wanted to bring forward because nobody has brought it up today, and I think it offers some value added for you to consider.

There's been a huge amount of discussion about the time that it takes and the cost, but we've really also got to think about the standard of review.

I think there is something really useful here with the analogy of my other field of business law. All the time you get objections raised to the actions of management in litigation, and how does the legal system handle it. In this state and others, it uses an approach called the Business Judgment Rule that could be suitably tailored. We have language work very well.

In non-legalize, the way to put it is, hey, look, you have one of these hearings, and what do you really look at? The district would want to show that, you know, its burden, that it's not a political case, there's good faith, okay. No conflict of interest. Assuming that hurdle can be covered -- and overwhelmingly let's say it will be, some it won't be, and then there really should be, close scrutiny. Assuming it's covered, then you say, can the district show that it's a reasonably informed decision? That's basically the Business Judgment Rule. Yep. You got to be able to show that, you know. That shouldn't be a big deal, though.

You also should have to show that you have a professional system in place. QSAC Rankings, for instance, could be used for that purpose arguably. That should be pretty straight forward.

So if you've got all of that, then you should have a system as in the Business Judgment Rule in which the person deciding -- ALJ, arbitrator, whoever it is -- doesn't look at the facts de novo. I really became convinced -- and the one reason I'm fired up about this issue is -- as you can tell I am -- the experience that I had as a board member, we did try to terminate. This was a teacher who previously had an increment withheld on unrelated matters, so -- and that, you know -- and other things nonpublic that we can't go into.
Then it gets to our trying to take away tenure. And the ALJ stipulated, basically -- and let me just make sure, you know, conduct involving a secret e-mail account that the teacher suggested be set up with an opposite sex, minor student of the teacher's, along with other things that there was back and forth on. We thought that warranted termination. We didn't win. We lost. ALJ reduced it 75 days. There was a little war with the commissioner, but then, ultimately, the teacher reinstated. Now, de novo we can all look at things and say, oh, gee, how serious is this; how serious is that?

But this is an illustration of how our system is profoundly broken, in my idea. In my notion -- I hope those that everybody is listening -- that is, you make a good faith reasonable judgment. When you -- and we did a lot of work. I don't recall that, you know, the time I was on the board doing all this, but, how many, you know, the years, the dollars. You lose. You lose.

And so if that's the substance, then it's just right what our school board's counterpart said. Yep. It really is a guarantee of lifetime employment. That's what we've really got. That's what we really got.

The key reform to change it is the five-year renewable, okay. Because tenure, it's over. At the end of the five years you've got to re-earn it. And then, though, within the five years, yeah, I think we should do, in essence, what the South Orange-Maplewood proposal calls for -- that is, have the district have a burden of showing its good faith, of showing its professionalism, and then assuming it does that, the substitutive standard review -- the burden would fall on the employee to show that there are unusual circumstances making the decision grossly unfair.

The legalese is the technical stuff that you guys, you know, I would certainly defer to, but I think that's -- would go something a lot further.

Don't like the arbitration suggestion, by the way. The 50/50 point made by Ms. Strickland I think is an excellent one -- again, based on my private sector NLRB experience, that's the way it works. Let's speed up the process of decision making. That's really important. NJEA is absolutely right about that along with, I think, all of us here.

I'm very, very skeptical, though, especially the proposal. If we're going to go with something that is more complicated -- well, like the Business Judgment Rule Standard, but also better -- I think it is better to have legally -- you know, people who care about the law applying it, but let's make them act fast, okay.

Very -- you know, I had a whole song and dance here in my statement that I hope that you'll have a chance to read based on much more personal factors.

SENATOR RUIZ: This is the abridged version?

MR. OSBORNE: Yeah. You didn't just do a whole song and dance?

MR. EASTMAN: Okay. No. It's -- it's a personal
story, and let me just say it really quickly three sentences.

Let me see --

MR. OSBORNE: The Senators haven't had lunch yet.

SENATOR RUIZ: I hope you're going to give --

I hope you're going to give the superintendent some time to speak.

MR. EASTMAN: Oh, no. Hey, he's going to speak

three times longer than me.

MR. OSBORNE: No. No. I won't. I promise.

MR. EASTMAN: The enemy -- here's the enemy. I'm

a tenured teacher, a New Jersey educator, I come from a

family of tenured New Jersey educators. My father retired,

okay, my sister, my wife. This is a business. And, you know, the biggest reason I want this

system changed is for me and for other educators and our

pride, our honor and our self respect.

A neighbor of mine -- a little barbed comment the

other day, oh, yeah, how many hours are you working this

semester? You know, I can go with this defensive stuff

about, oh, yeah, academic life, you know, the schedules are

different, you know, you trade off pay. And that stuff is

ture, don't get me wrong, but I want to be able to look my

neighbor in the eyes knowing that there is a system there

that evaluates all of us educators so we don't have a

lifetime guarantee, because that -- to be honest that, to be blunt --

is what we have now. It's just unfair. It's unfair to

the junior teachers who bear all of the burden, it's unfair

to the vast majority of New Jersey citizens who don't have

this guarantee.

For our sake, the educators of New Jersey, please

change this system.

Thanks a lot.

SENATOR RUIZ: Thank you very much.

MR. OSBORNE: Okay. So you've just learned a little

bit of what my life is like as superintendent in South

Orange-Maplewood.

MR. EASTMAN: This is one of my calmer moments, by

the way.

MR. OSBORNE: There are eight more of him, by the

way, on our board of education.

So Madam Chair and Senator Allen, thanks for

putting in such a full day. It has actually been a great

day. I mean, I applaud your attention span to still

be sitting after all the words that you've heard, but this

is the key issue, and the fact that it's such a key moment

makes the day incredibly exciting.

I'm Brian Osborne; I'm superintendent of

South Orange-Maplewood Public School District.

South Orange-Maplewood is a racially diverse K to

12 district. We've got 6500 kids in 1 high school, 2 middle schools and 6 elementary schools.

We're an I District, yet 4 of our -- no, 6 of our

9 schools, excuse me, are Title I, and we have about 30

percent of our students on free and reduced lunch. We enjoy an excellent reputation, because our

educators and -- the critical mass of our educators are so

good.
We have kids that go on into competitive colleges. We are awesome scholastically. Our kids win awards. We win on the field. We -- music and arts to die for. I mean, this is a great place. Everybody should be dying to move to South Orange and Maplewood because our schools are so incredibly good.

And while we have these high levels of overall inaggregate scores, we also face an unacceptable and pernicious achievement gap that is too often and too closely correlated to race and class.

The gap in quantitative measures is like 30 or 40 percentage points on any given standardized test. And in any other measures you look at, AP course taking, graduation rates, college matriculation -- not graduation rates, everybody graduates, college matriculation rates, we have similarly outsized gaps in our system. And we have been working like crazy over the last three years on a multi-strategy -- multi-stranded strategy to do damage to our achievement gap, and we've been making ground. We've got some traction. We have been reducing and narrowing our achievement gap and we've been raising the bar for all of our kids, and we are moving, but we are moving at an incremental pace.

So the reason I'm here and stayed all day and listened so closely is that I need the most important lever, and the most important lever to accelerating our progress on the pace of change and the system like ours is a change to the tenure system in New Jersey where tenure acts as a virtual property right.

The current system has multiple barriers to -- that amount to too little accountability, too difficult to get culture change and unneeded obstacles to ensuring that every single kid has a quality teacher, superb teacher in every classroom every day. I'm like the chief officer of a $110 million operation, and tenure constrains my work every day on a daily basis.

First, administrative tenure, I've got senior leaders and department heads and division heads, if you think of our schools that way that have tenure. So just imagine, that as senators you couldn't choose your chief of staff because you inherited your chief of staff with tenure. Imagine that the governor couldn't replace division heads. I mean, they do absolutely deserve job protection, especially because the governance system that we exist at the local level, there's elections every single year and the voter turnout is so low that a narrow special
interest can get elected if they really want to. And that is a very volatile system and we need protection from the political wings.

But as so many put it -- my colleague, Superintendent Carroll, from Lindenwold said, that it's outlasted its usefulness. And that is a complete understatement. It leads to, because the tenure rights overdo it, nobody wants to move.

The story that Mr. Eastman shared about what it took to bring tenure charges and the fact that the district lost -- right, I mean, the message that sends to every evaluator and administrator in our system is very clear and very intense: why put in all of the time and effort? There's no stakes at the end anyway. We don't have the levers. Another practical issue is the timing. This is what Senator Johnston called the up and out decisions.

So I just want to say -- just a hypothetical example, it's not so hypothetical -- but a teacher's first year, they're in a school, they get evaluated by a principal who is later non-renewed. And part of the reason the principal is non-renewed is that the quality of the observations and evaluations is so poor. The second year there is a new principal, but the teacher is out on leave. You know, teachers still accrue tenure while they're out on leave. So the teacher is out on leave for a lot of the year -- incomplete evaluations.

Third year, still that same new principal in her second year, and a decision's got to be made by May of that year of whether that teacher is coming back. And if that teacher is coming back, they're coming back basically for life, or with the burden of what it takes to bring tenure charges. Whatever the decision, it's going to be based on insufficient information.

Just-- The timing problem is going to get more intense if there's not a change, too, because I think that you're going to see a lot of superintendent turnover and administrative turnover, which means that the timing decisions are going to get a lot tougher. We probably are going to face more inexperienced superintendents as well. So superintendent new to a district, principal is in their last year before getting tenure, like, how does that timing -- how does that possibly make for sound decision making and for a process that is good for kids?

On the issue of streamlining and timelining, as though it's just the timeline and the cost -- I mean, I just was really resonating with Superintendent Ronald Lee's description. He's in a very, very urban district, but, really, it's no different for us.

Currently, the burden of proof is wrongly placed and it's wrongly calibrated. Mountains of evidence and documentation to prove the charges, mountains of evidence and documentation proving progressive discipline and targeted supports have been followed, and it takes years. If the decisions to withdraw tenure are based on
multiple measures, and if the district is in pretty good standing, then there should be a presumption that the district is making the right decision in the interest of kids. And that whole burden - it's not just about timeline and cost, it's about the burden of proof, where it's placed and where the bar is set.

Also as Senator Johnston made this point really clearly, the last in, first out has got to change. In the budgets that the districts are going to face over the next couple of years, there's going to be downsizing and layoffs because we're not going to be able to balance our budgets without downsizing. If you're downsizing -- he used the example, I'll just remind you of, the five-year teacher who's not so effective as a two-year teacher -- a second-year teacher who's extremely effective. And if you have last in, first out rules, that second-year teacher is the one that goes. That's not good for our systems; that's not good for our kids. So to get a better system, one that puts students first, we need changes in the law.

And I'm just so incredibly delighted that there even seems to be an open bipartisan window at the moment. It's not just here, it's nationwide. We're a little behind in New Jersey, you know. It's not just Colorado that's gotten there, but a lot of districts in places have gotten there.

We've been working for the last two years on implementing a robust collective observation evaluation process that is evidence-based. We use our framework for teaching, we're building shared language. We've been investing like crazy in our administrators and supervisors to do this soundly so that we have innovated reliability and good results. That's one thing that we've been doing. And state-level action will certainly help.

I really appreciated what Dan Weisberg said, the New Teacher Project policy vice president. He said, you can have the perfect evaluation system, if there is no stakes attached - his words - it's going to die on the vine. And right now we're moving towards what I think is a brilliant evaluation system, but if we still can't move on poor performance or the only way we do it is face these incredibly high burdens of tenure charges, then it's going to die on the vine and my ability to sustain people's quality work is going to diminish quite a bit over time.
The second area is the assessments and the data systems. To the extent that we're going to quantify some part of the evaluation, and I do think that we heard from -- what -- when NJEA was here and they were speaking about whether it's 50 percent or not, I think that you did hear some willingness to have it be some percentage. So that's a good thing. And to the extent that it can be quantitative and objective, it's got to be based on assessments that we really like, that we really want students to know and be able to do. And I'm not sure that our current assessments, which are only in math and English, language arts, aren't already outdated. I mean, I think they really need to improve. That said, there shouldn't be reasons not to move. If you move now, it would help tremendously. But to make this really good over time, the evaluation system and the assessment systems have to be great. And that needs state-level work as well.

One more thing: As budgets get constrained, the politically expedient thing to do at the local level is to cut administrators. I mean, any typical parents, community members, they think there is too much administration, cut administrators, leave the classrooms alone. But none of this works if we don't have trained, expert instructional managers monitoring and evaluating teaching practice. And if we have too few of them, then the evaluations and observations are going to be watered down, they're going to be formulated -- if they're just going to be compliance driven and they're not going to be real. So I just wanted to make that statement so that as budgets get decreased and districts make tough decisions, we all bear that in mind.

So I know -- I mean, I've said things that other people said already, Madam Chair, so my apologies for prolonging it, but I am just really excited. I think that this is a great moment. I applaud your courage and -- both of you -- all of you, for hanging in there all day and listening to all these great perspectives.

MR. EASTMAN: And if anybody has any questions on any of what we had to say, please.

SENATOR ALLEN: I apologize for prolonging, but, I mean, you talked about a person who sounded like he or she was actually a predator, and yet was allowed to continue to teach, and that scares me.

MR. EASTMAN: That was our interpretation, and, obviously, you know, I'm not accusing anybody who made a decision of acting in bad faith or acting wrongly, but I was very, very disturbed that --

SENATOR ALLEN: Can you tell me --

MR. EASTMAN: -- a good faith, reasonable decision based on --

SENATOR ALLEN: Tell me very, very --

MR. EASTMAN: -- ample information got overturned.
SENATOR ALLEN: -- quickly, on what basis was this
person allowed to continue teaching?
MR. EASTMAN: Essentially, the conduct that I
described, there were other disputed elements -- was stipulated
that is agreed to by the ALJ. The ALJ simply has, as the current system
operates, essential discretion, that is, to no overview. In other words, you say, hey, no. I think
days
is appropriate. The district wants to dismiss, I found this
fact, but, no. And then it is subject, as was well described
earlier with the complex process by DOE a little earlier in
today's testimony, to going back to the commissioner which
goes back and added some days docking for this particular
teacher, but upheld the fundamental ruling for the teacher
and against us.

The teacher is back in the classroom. I
found that unbelievable, particularly given this -- the
prior history that I referred to with the public, you know,
withholding of an increment separate.
It's a really, really bad system, you know. No wonder
people don't bring ineffectiveness charges. The deck is so
stacked, it's not even funny.

SENATOR ALLEN: Thank you very much.

SENATOR RUIZ: Thank you, Senator Allen,
thank you Superintendent, thank you Mr. Eastman for
staying with us the course of the day.
I will say that we nearly put in a full school day
during this hearing -- that when we talk about public
education reform, there are certain different variables that
we're going to have to step up to. We're going to have to
engage in conversations that, perhaps, are not comfortable
in some areas; that we're going to have to look at criteria
as a whole from parent participation, school, everything.
But that everyone has echoed the same exact variable
today when we've spoken about tenure; that's accountability,
and that's creating a good leader in a classroom will always
put our children first.

Thank you. And that concludes the Committee.

MR. OSBORNE: All right. Thanks very much.

MR. EASTMAN: Thank you.

Whereupon, the proceeding was
adjourned at approximately 3:10
p.m.)
CERTIFICATE

I, RENEE HELMAR, a Shorthand Reporter, and Notary Public, certify that the foregoing is a true and accurate transcript of the proceedings which were held at the time, place and on the date herein before set forth.

I further certify that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which these proceedings were taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Renée Helmar
Shorthand Reporter