

Summary of Testimony

January 29, 2009

I addressed extemporaneously some of the issues raised by Council Members' questions to earlier witnesses.

Least Restrictive Environment governs the ingredients of the environment in which the child can learn effectively. For some children the Least Restrictive Environment may be what appears to be a restrictive setting, but that may be needed in order for them to learn effectively. I used as an example that as a former teacher of deaf children, I believed that many deaf children do not fare well in a mainstream setting because their communication needs are very specific and can be difficult to address in a general education environment. Attempts to include children in larger general education classes, which don't meet their needs may actually be more restrictive for that child, with potentially serious consequences. Therefore LRE needs to be looked at carefully as a bigger picture than simply student-teacher ratios.

In response to a question from the Committee Chair about whether teachers understood what Dyslexia was, I pointed out that most teachers are not taught to recognize it or to intervene with appropriate instruction, which is why professional development so very necessary and, in the end, cost saving. I clarified that Dyslexia is an unexpected inability to read the printed word; a basic deficit in the association of letters with sounds that they make, in isolation, and in words, and an unexplained inability to perform these basic skills with fluency.

I encouraged Council Members to focus the Department on replicating programs that have been successful. Good teaching of reading is good teaching of reading. Research demonstrates that a structured multi-sensory program of direct instruction in reading is the only solidly evidenced-based approach to teaching of reading. This has been confirmed by the National Reading Panel which described the five pillars of competent reading in detail.

We need more access to programs such as Wilson and Foundations training in the schools. But we also need to give teachers more opportunities for follow-up instructional guidance and supervision in order for them to implement these systems effectively. Like any professional, teachers need to practice and be guided in those efforts. I wouldn't take a continuing legal education seminar in tax law and the next day be competent to be a tax lawyer, I would need practice and the guidance of senior practitioners expertise to assist me.

I addressed in greater detail an additional issue critical to the overall picture. Testimony centered around the Department's plans to reorganize "Special Education." This presumes that we are talking about children who are classified under the Individuals with Disabilities Education Act (IDEA). However, many children who are not classified as needing special educational services, indeed have disabilities and are entitled to non-discrimination in education, including the provision of modifications and accommodations. Although the trend is increasingly to declassify children and/or include them in general education classes, these children remain protected by

law. The Department's proposal does not indicate its plans for tracking the services and accommodations needed by these children.

This issue is of great importance because the effective date of the amendments to the Americans with disabilities act was January 1, 2009. The amendments restored to broad scope of individuals to be protected, including school children. This past July, I testified before the U.S. Senate in support of the ADA Amendments Act (ADAAA) which restored the original, broad scope of protections intended by Congress. Simultaneously, Section 504 of the Rehabilitation Act of 1973 was conformed to the ADAAA. These amendments make clear that children with disabilities, even though they may not need specialized educational services, are entitled protection from non-discrimination and are also entitled to appropriate accommodations in the classroom and on tests. I was disappointed that two organizations testifying against restoring the original scope of who was protected by the ADA included the American Council on Education and the Council of the Great City Schools, which consults with New York City's Public Schools. The City Council should require that the Department of education be accountable for the provision of federally protected services to these special needs children as well.

In addition, I addressed another consequence of including children with special needs in to the general education classroom without adequate supports - that of bullying. This is a growing trend in schools across the country. I pointed to two main contributing factors:

1. Teachers who are inadequately trained in recognizing signs of dyslexia and other language based communications disorders, and who too often are not sufficiently trained to implement positive, research-based behavior management principles and techniques.
2. Children who have language-based learning and communication disorders may not understand what is happening or what expected of them. They may not understand what infraction they committed or how. They may misunderstand directions and consequences because of their language-based problems. This is compounded when the child is a English Language Learner as well. These children are often unable to keep up with their peers, which can lead to bullying. This, in turn, can lead to a failure to report such incidents, because of fears of retaliation – further discouraging parents from engaging in due process protections. A number of Council Members indicated this was a concern for them.

I also pointed out that many parents have reported that when filing a request for due process, that the Department of Education has communicated to them that if the parent challenges placement and is unsuccessful, the Department will seek reimbursement of its legal fees. This further chills parents' exercise of their due process rights under the IDEA and Section 504 of the Rehabilitation Act of 1973.