



April 30, 2012

The Honorable Senator Paul Sarlo, Chair
Senate Budget and Appropriations Committee
496 Columbia Blvd, 1st Floor
Wood-Ridge, NJ 07075

The Honorable Brian P. Stack, Vice Chair
Senate Budget and Appropriations Committee
301 45th St. 1st floor
Union City, NJ 07087

The Honorable Assemblyman Vincent Prieto, Chair
Assembly Budget Committee
1249 Paterson Plank Road
Secaucus, NJ 07094

The Honorable Gary S. Schaer, Vice Chair
Assembly Budget Committee
1 Howe Ave. Suite 302
Passaic, NJ 07055

RE: Acting Commissioner's Testimony on Development of SFRA

Dear Senator Sarlo, Senator Stack, Assemblyman Prieto and
Assemblyman Schaer:

I write to correct the record before your respective Budget Committees concerning the testimony of Acting Commissioner Christopher Cerf regarding the development and enactment of New Jersey's school funding formula - the School Funding Reform Act of 2008 ("SFRA"). As you know, the Education Law Center ("ELC") advocates for fair and equitable funding for New Jersey public school children and serves as counsel to the Plaintiff school children in the landmark Abbott v. Burke litigation.

In promoting Governor Christie's proposed changes to the SFRA in the FY13 Budget, particularly the adjustments to the costs and weights for low income (at-risk) students and English language learners, Acting Commissioner Cerf has, in testimony

and public statements, made certain assertions and representations regarding the development of key components of the SFRA formula from 2002 through 2007, and the Legislature's role in adopting the formula in January 2008. Most recently, on April 23, the Acting Commissioner testified before the Assembly Budget Committee as follows:

Back when the SFRA was being designed...the Professional Judgment Panel made a series of recommendations for what the weights would be for at-risk children, at different concentrations; for limited English proficiency children, as well as some combination of those two. **When it got into, forgive me, the sausage maker of the legislative process, the recommendations of the experts were ignored and those weights were all increased by a very modest amount. So what we have recommended is going back to the only expert we have on this, which is going back to multi-years of experts and going back to the weights that the experts actually recommended. (Emphasis Added)**

On another occasion, during a recorded public conversation with the Mayor and School Superintendent of Fort Lee on April 16, the Acting Commissioner stated:

When we went back and looked at the way these weights were derived, there was this very intense process involving panels of experts called the professional judgment panels and they made very specific proposals, they built up costs and they had an analysis and they generated weights of certain amounts of money **and then it went into the sausage maker of the legislative process and they just sort of increased those weights without any basis in expert testimony or anything they just increased it because that's what it took to get the bill passed...on the weights, we did bring them marginally down, equal to what the experts had actually recommended....sort of take the politics out of it. (Emphasis Added)**¹

As explained below, these statements are an inaccurate and incorrect description of what occurred during the process of developing and enacting the SFRA, and suggest either that the Acting Commissioner is unfamiliar with the record or has chosen

¹ Recording available at:
<http://www.youtube.com/watch?v=O6eVUKAuwPQ&feature=youtu.be>

to misrepresent it as part of the effort to alter the formula through the budget process, rather than through the submission of the statutorily required Education Adequacy Report. See N.J.S.A. 18A:7F-46.

Rather than "ignoring" expert opinion, as the Acting Commissioner asserts, the final weights adopted by the Legislature as part of SFRA were in fact the most up-to-date "expert opinion" then available. The rigorous process employed by the Department of Education to develop the SFRA is described in detail in the Department's own report, "A Formula for Success: All Children, All Communities," released to the Legislature in 2007. As the report makes clear, the original cost models were developed using the Professional Judgment Panel² process back in 2002-2003, but required updating with more current data, research and information as the formula was developed in 2006-07. To ensure a rigorous and thorough analysis, the DOE retained two separate groups of school finance experts to review the PJP results in addition to seeking legislative and public input.

In January 2007, DOE retained Allen Odden from the University of Wisconsin-Madison, Lawrence Picus from the University of Southern California and Joseph Olchekske from the American Institutes for Research to review and comment on the PJP results. After an extensive analysis, these three experts recommended several adjustments, including: 1) raising the at-risk weight; 2) using mean salaries rather than median salaries to determine model costs; and 3) increasing the allocation for professional development. They also recommended three additional areas for further state review - increasing the substitute pay and overall benefit rates in the models and using a newer method for determining geographic cost adjustments.

After making some modifications based on these recommendations, the Department held public hearings and met

² In the PJP process, panels of educators identify and recommend programs and strategies necessary for prototypical elementary, middle and secondary schools to provide an academically rigorous education for their students, as well as the resources necessary for school and district central offices, facilities, maintenance and transportation functions. After the panelists determine the necessary resources, costs are assigned to the various programs and materials using actual cost data. In 2002, NJDOE contracted with the consulting firm of Augenblick, Palaich and Associates (APA) to assist with the panels and estimate costs.

with legislators to get feedback on the proposed formula. Based on suggestions made during those meetings, in June 2007, the Department retained another panel of school finance experts - Tom Corcoran from Teachers College at Columbia University, Susanna Loeb from Stanford University and David Monk from Pennsylvania State University - to review the feedback and assist the DOE with the final adjustments to the formula.

As then-Commissioner Lucille Davy explained in a press release when the DOE retained the first panel of experts to review the cost models developed during PJP process:

We want to be sure that our results are supported by the latest research about the resources required to help all students succeed. We also want to know if there is anything missing from our inputs, or if we need to make any adjustments before moving to the next step of the process of developing a responsible, rational and equitable school funding formula.³

Further, the final weights for at-risk students and English language learners in the SFRA were not modified in the legislative process in enacting the formula into law. Rather, final -- and indeed current -- weights were those formulated through the various rounds of expert analysis and review, as recommended in the Department's "Formula for Success" Report."

It should also be noted that this expert-driven process of developing the SFRA was thoroughly vetted and acknowledged by the Supreme Court in upholding the constitutionality of the SFRA in Abbott v. Burke, 199 N.J. 140, 158-162 (2009) ("Abbott XX").

To suggest, as the Acting Commissioner has done, that Governor Christie's proposed modifications to the costs and weights in the SFRA formula are valid because they go back to the original PJP results as "the only expert we have on this" and restore "the weights that the experts actually recommended" is clearly inaccurate and completely unsupported by the exhaustive public and court record on the development and enactment of the SFRA in 2009.

I enclose the Department's "Formula for Success" Report for your review, and to refresh your recollection of this matter. It provides a detailed description of the SFRA development

³ <http://www.state.nj.us/education/news/2007/0102sf.htm>

process and explains why certain adjustments were subsequently made to the results of the 2002-03 PJP process.

Thank you for your attention to these comments. Please do not hesitate to contact me for further assistance or clarification.

Respectfully,

A handwritten signature in black ink, appearing to read "David Sciarra". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David G. Sciarra, Esq.
Executive Director

Encls.

cc: Acting Commissioner Christopher Cerf