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**SUBMITTED VIA E-MAIL** (Comments.Mailbox@njcourts.gov)

Committee on the Unauthorized Practice of Law  
Attention: Carol Johnston, Committee Secretary  
Richard J. Hughes Justice Complex  
P.O. Box 970  
Trenton, New Jersey 08625-0970

Dear Ms. Johnson:

Volunteer Lawyers for Justice ("VLJ") is a non-profit law firm dedicated to improving the lives of economically disadvantaged adults, children, and families in New Jersey by empowering them with tools, advice, and pro bono representation with the goal of securing fair and equal treatment within the legal system. VLJ provides free legal services throughout the state with more than 1,500 attorneys, paralegals, and advocates who volunteer their time for one or more of VLJ's 11 pro bono programs, serving veterans, children, tenants, families, and victims of human trafficking. VLJ's Children's Representation Program (CRP) provides free legal advice and representation statewide to children with disabilities who have been denied the special education services to which they are entitled, students who have been suspended or expelled from school, or children who are victims of harassment/bullying in school.

VLJ receives referrals to the CRP from community partners such as the Education Law Center (ELC) and Disability Rights New Jersey (DRNJ), and attempts to place cases with pro bono volunteer attorneys. The vast majority of cases referred to the CRP for pro bono representation involve special education matters. While the CRP has been successful in finding pro bono attorneys for as many families as possible, there are not always enough attorney volunteers available to take every case. As a result, many parents rely on assistance from non-attorney advocates. With that perspective, we are submitting this letter to urge the Committee on the Unauthorized Practice of Law to permanently withdraw Opinion 56, issued on September 30, 2020, pertaining to Non-Lawyer Special Education Consultants and the Unauthorized Practice of Law.

Parents often find it difficult to advocate on behalf of their children for educational services, and the results of self-advocacy are sometimes devastating. This is especially true in low-income communities, where poverty, language, and educational background can leave families feeling powerless. In those instances, when VLJ is unable to place cases with volunteer attorneys, non-attorney advocates play a crucial role in assisting parents in exercising their children's rights under the Individuals with Disabilities Education Act (IDEA).

Despite their best efforts, many *pro se* parents of children with disabilities do not have the knowledge required to advocate for their children. Non-attorney advocates help parents review the child's evaluations, progress reports, and other data and explain what they mean and how they apply to the child and what services their child may or may not be entitled to based on those results. Non-attorney advocates also collaborate with such parents, consult with them to determine if the child's current IEP is acceptable and attend IEP team meetings with the parents. This way, the children receive the benefit of their parents' unique knowledge and the expertise of a non-attorney advocate. Without such an advocate, the *pro se* parents would have no alternative but to navigate this complex system on their own.

Importantly, the IEP meeting is not a legal proceeding. In fact, 20 U.S.C. §1414 (d)(1)(B)(vi) allows other individuals who have knowledge or special expertise regarding the child to be included on a child's IEP team. 34 CFR 300.321(c) provides that the determination of the knowledge or special expertise of these individuals must be made by the party (parents or public agency) who invited the individual to be a member of the IEP team. VLJ submits that this determination is best left to parents and the public agency. **VLJ further submits that it would be inappropriate to regulate on the specific knowledge and expertise that an individual must have to be included on an IEP team because it would be burdensome for both parents and public agencies. Additionally, nothing in the Act prevents parents from consenting to have an observer who is not a member of the IEP team present at the meeting, as the parent can consent to the sharing of confidential information about the child.**

Opinion 56 would have a detrimental effect on the rights of students with disabilities because it would drastically curtail the role played by non-attorney advocates in non-legal proceedings that precede (and frequently render unnecessary) formal due process hearings. Accordingly, Volunteer Lawyers for Justice requests that Opinion 56 be completely withdrawn.

Respectfully,

A handwritten signature in blue ink that reads "Cathy Keenan". The signature is written in a cursive style with a long horizontal stroke at the end.

Cathy Keenan  
Executive Director