



Giving Every Child A Chance

To: Members, NJ Board of Education State

From: Nina C Peckman, Esq. Staff Attorney, Advocates for Children for New Jersey

Date: May 3, 2023

Re: Public Testimony Regarding Chapter 7, Managing for Equity and Equality in Education

Advocates for Children of New Jersey (ACNJ) is a statewide multi-issue child advocacy organization. ACNJ advocates for laws and policies, more effective funding and stronger services to make sure that all children are given the chance to grow up safe, healthy and educated.

Since 1996, ACNJ has provided information and advocacy assistance regarding New Jersey education laws and procedures to parents and professionals who work with children. I joined ACNJ in 2007 to staff this *education rights program*. The primary mission of this program is to help poor and low income parents/caretakers resolve disputes with their school districts through a collaborative process without litigation. ACNJ provides this as a free service, and the program is funded through an IOLTA grant and funding from other foundations. It is within the framework of what we have learned through our advocacy work on individual education cases, that ACNJ appreciates the opportunity to provide the following comments regarding the implementation of Chapter 7, particularly N.J.A.C. 6A:7-1.7(a) Equality in school and classroom practices.

The mandate of N.J.A.C. 6A:7-1.7(a) among other promises is that all students will have equal and barrier-free access to all school and classroom facilities. This includes equivalent, timely instruction that may include home instruction without prejudice or penalty for students determined to have long term medical conditions that require this type of instruction.

Each year for the past two years, ACNJ has provided advocacy assistance to over 300 parents and their children. These families are primarily from poor and low income households, are families of color and reside throughout the state in urban, suburban and rural communities. During this time, ACNJ's data indicates that 57% of the students required advocacy regarding non-disciplinary special education issues. Another 20% of students required legal assistance due to suspensions and an additional 14% required advocacy because they were excluded from school due to their mental health issues. A significant factor that lead to disciplinary or mental health issue for these students was due to their disabilities that were being inadequately addressed by their schools.

From our cases, I have seen first-hand that implementation has fallen short of the expectations outlined in N.J.A.C. 6A:7-1.7(a). Most of ACNJ's cases addressed issues regarding the failure of IEP or 504 plan services because schools did not have appropriately certified staff including special education teachers to implement those services. Frequently, agreed upon related therapies, aides or resource instructional settings were not being provided. Another reoccurring scenario included

students being offered inappropriate placements only because their districts did not have the staffing or an appropriate environment.

The impact of providing education services that result in inequality and inequity not only affects students' current learning but their future long-term educational success. For example, in cases concerning students with disabilities at the high school level, many have not been provided with appropriate academic and/or behavioral supports at the levels necessary to provide the skills needed for the students' futures. Consequently, they have not been prepared for life after high school and will likely struggle to live up to their potential either by attaining a high school diploma or a GED, ready for college, or a vocation or mastery of life skills essential for their independence. Some of my high school clients are so soured on a high school education that they would sooner disenroll rather than continue in programs that they perceive as not providing them with individualized instruction in a safe and non-punitive setting with compassionate counseling supports.

Moreover, too often the lack of school-based services and poorly trained staff are impacting discipline and/or mental health services for our clients. For example, several parents I assisted faced truancy court although their children's documented behavior and emotional disabilities were not addressed by their school districts. In other cases, districts placed students in alternative schools or in out-of-district placements without first conducting relevant evaluations to better understand the reasons for the behaviors or involving the child study teams to first try to implement more intensive in-district supports. Issues also arose around the quality of the instruction provided to students who were not attending school for long periods of time due to suspensions, mental health and/or other medical issues. Many of my clients are struggling because their districts are not placing them in appropriate in-person school settings. Several parents stated their children were only given an on-line home instruction option which did not enable the student to learn given their disabilities.

While the Department of Education clearly intends to provide all students with an equitable education to ensure academic achievement, many of the students and their families who have come to ACNJ for assistance are not experiencing the education and services towards that end as they are not receiving the educational opportunities and quality instruction afforded to their non-disabled peers.