



**Testimony of the
Pennsylvania State Education Association**

**Public Hearing Regarding
Special Education in Pennsylvania Public Schools**

**Presented to the
House Republican Policy Committee**

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**By
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Good afternoon, Chairman Saylor and members of the House Republican Policy Committee. I am Jerry Oleksiak, a special education teacher with over 30 years experience in the classroom. I am currently on leave from my position in the Upper Merion Area School District while I serve as the Treasurer of PSEA. On behalf of our 191,000 members, thank you for the opportunity to share our thoughts on the importance of providing special education services to over 270,000 students in Pennsylvania with special needs.

The promise of a free, quality public education for *all* students – including students with special needs – is not only a law that we support but it is a core principle for PSEA. Consistent with that belief, PSEA supports the full continuum of services for identified students, and we recognize their need for specially designed instruction that will allow them to reach their full potential and become productive members of society. PSEA recognizes that quality special education is critical for supporting the well-being of children with special needs and the well-being of their families and their communities.

While the number of legal requirements governing the provision of special education services can be daunting at times, it is our nation's and state's dedication to all students, regardless of ability, that sets us apart from much of the world. And we are seeing success from our consistent and collective efforts. Pennsylvania has one of the highest graduation rates for special education students in the nation, and in recent years the number of Pennsylvania students with special needs gaining entry into post-secondary education has increased.

But while these federal and state government requirements are critically important, it benefits all of us, particularly our students with special needs, when stakeholders and policymakers such as all of you here today continue to identify ways to improve the service delivery system without sacrificing the quality of education our students receive.

We can be proud of the special education system in Pennsylvania that is serving so many of our students so well, but we also know there are always improvements that can and should be made. We must continue to ensure that all children are provided the special education supports and services they need, they deserve, and to which they are entitled. One such critical improvement would be addressing how the state funds special education in Pennsylvania.

We know that providing a basic, quality education for students with special needs requires, on average, more than twice the amount of funding needed to teach their general education peers. This is due to the intensive services and supports required, including: adequate staffing; targeted and appropriate professional development; specialized personnel such as speech pathologists, physical therapists, mobility specialists, and behavioral support specialists; assistive technology devices and services; and student support programs and services.

A 2009 study of Pennsylvania special education funding, however, found that 391 school districts have inadequate funding for special education, averaging an annual shortfall of almost one million dollars per district. This should be addressed by increasing state funding for special education and distributing the funds based on actual costs incurred by the school district to meet a student's Individualized Education Plan (IEP). Improved funding for special education in Pennsylvania would increase instructional effectiveness for students with special needs, reduce dropout rates, and improve overall student achievement.

By not funding special education in our public schools based on the actual costs incurred, those districts with a higher than average percentage of special education students or a higher than average cost for special education programs due to the severity of the disabilities of some of their students will consistently be shortchanged with insufficient funds to provide the services they are required to provide. PSEA strongly urges lawmakers to revise the funding formula for special education to be based on the actual costs of providing the services these students need and deserve.

In addition to concerns about state funding, PSEA and many other advocates for children with special needs have witnessed the federal government continually underfund its commitment to pay 40 percent of the average per student cost for every student with disabilities, a promise made in the Individuals with Disabilities Education Act (IDEA) over 30 years ago. Due to this inadequate and inequitable federal and state support for special education, school districts must reduce spending in other critical areas, or they must raise local taxes to fund services mandated by the IDEA and state law.

Costs, mandates, and expectations continue to rise. For example, the issue of inclusion has evolved over time, as families, students, educators, and advocates continue to identify the most appropriate setting, the least restrictive environment, for educating special needs students. This is a laudable goal, but one that does not come without significant costs. When done correctly, districts incur additional costs in delivering the supports and services necessary for the child to make meaningful progress in the regular education classroom. Pennsylvania is in the final year of implementation of the Gaskin Settlement Agreement.¹ What we are learning through the process of including more students is that there is a need for significant and on-going staff development on the many different processes and techniques required when educating students with significant disabilities alongside their general education peers. Issues such as differentiated instruction, alternate standards, positive behavior supports, de-escalation techniques, and restraint techniques must be addressed. Sufficient planning time must also be provided so that regular education professionals can work together with their special education colleagues on planning and activities for special education and general education students. These programs and this time are all a necessary part of providing appropriate services. They can be very costly for school districts, but they are essential to meet both the letter and the spirit of the law.

We, at PSEA, are also concerned that budgetary factors resulting in cuts in mental health and other community services for children with disabilities can have a profound impact on schools. Students with emotional disturbance, autism, and mental retardation often need the support and services provided by our county systems in the form of respite care, therapies, counseling, and intensive case management. These services are essential for ensuring that students are prepared to come to school ready and able to learn. When these services are cut, as has recently been the case, the student's ability to access education is diminished and the local education agency is often forced to compensate for that loss and provide costly services which are related to medical and mental health issues.

¹ *Gaskin v. Pennsylvania Department of Education* was a class action lawsuit filed in 1994 on behalf of the lead plaintiff, Lydia Gaskin, and numerous other individuals and disability advocacy organizations. The action, which asserted violations of IDEA and other federal statutes protecting children with disabilities, was settled in 2005.

Pennsylvania is fortunate that due process hearings have decreased from 173 in 2004 to 54 in 2008, the last year for which we have data. This is likely attributable to the fact that facilitation and mediation are available to resolve issues for parties who are open to settling disputes. The cost of special education litigation would likely increase, however, if proposed legislation regarding “Burden of Proof” becomes law. Currently our state regulations, as well as a 2005 decision of the United States Supreme Court, have placed the burden of proof when placement and program decisions are challenged, on the entity seeking to challenge the current placement or offerings. There is not any valid reason to alter this approach, which reflects a fair and reasonable allocation of the burden of proof, by placing it solely on the school district.

There are other issues impacting school districts’ abilities to provide special education services as well that should be addressed. PSEA has noted an increase in the number of private for profit schools approved by the state to educate special education students. School districts are required to pay the child’s tuition at these schools, as well as higher related transportation costs. This may not be the best or most effective use of limited funds for special education. Another area of concern is ensuring that there is sufficient staff to provide the necessary educational services and supports to students with special need. There are increasing vacancies in staff positions in necessary and specialized supports and services for students with IEPs. Currently districts are struggling with employee shortages in highly specialized fields such as Occupational Therapy, Physical Therapy, and Speech Pathology. For example, there are over 250 speech pathology positions in Pennsylvania currently being filled by emergency certified staff. PSEA is encouraged, however, that the Pennsylvania Department of Education (PDE) is developing a new option through the Education Specialist Certificate that will give pre-service candidates a second method to achieve a degree. We encourage you and your legislative colleagues to support this effort and to urge PDE to move this innovative idea forward.

As you can see, there are numerous issues that concern me, not only as a teacher who has dedicated most of his professional life to serving the special education population in Pennsylvania, but also as an officer of PSEA. Thank you for this opportunity to share PSEA’s perspective surrounding special education and we look forward to continuing to work with you to develop solutions for these critical issues.