

COUNCIL ON EDUCATIONAL SERVICES
FOR EXCEPTIONAL CHILDREN

Raleigh, North Carolina
December 13, 2017
9:47 a.m.

TRANSCRIPT OF QUARTERLY MEETING

The quarterly meeting of the Council on Educational Services for Exceptional Children was held on the 13th day of December, 2017, in the State Board of Education Boardroom, Education Building, 301 North Wilmington Street, Raleigh, North Carolina, commencing at 9:47 a.m.

APPEARANCES

COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN
BOARD MEMBERS PRESENT:

Leanna George, Chairperson
Vicki Simmons, Vice Chairperson

Dale Carpenter
Anna Carter
Diane Coffey
Jennifer Grady
Cynthia Daniels-Hall
Christy Hutchinson
Adam Johnson
Carla McNeill
Teresa Mebane
Virginia Moorefield
Jennifer Mullis (via telephone)
Lisa Phillips
Ann Stalnaker
Rickey Smith
Jennine Vlasaty

STAFF:

Sara Bigley
Tish Bynum
Carol Ann Hudgens
Bill Hussey
Nancy Johnson
Heather Ouzts

VISITORS:

Eric Hall
Public Speaker #1

COURT REPORTER:

Rebecca P. Scott

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1 Thereupon, the following proceeding was held:

2 THE CHAIRPERSON: Okay. Let's go
3 ahead and get started. We're going to try to go
4 through the introductions pretty quickly. If
5 everyone would please say who you are and a little
6 bit about yourself and where you're from. We have
7 a few new members here on the committee with us
8 today, so yay, for them. Glad to have you.
9 Welcome.

10 And let's get started. My name is
11 Leanna George. I'm the Chair of the CESEC, the
12 Council on Educational Services for Exceptional
13 Children. If I can talk straight today, I'd be
14 doing great. I have two wonderful kids, both of
15 them with the exceptionalities. One is actually
16 homeschooled, but my daughter is in a group home
17 and still goes to public school. That one's mine,
18 so---

19 MS. DANIELS-HALL: I'm Cynthia
20 Daniels-Hall. I'm a parent from Wake County. I
21 have five children -- well, six -- six children,
22 and my children have autism.

23 MS. COFFEY: I'm Diane Coffey and I'm
24 from Watauga County, and I have two children with
25 special needs.

1 MR. SMITH: I'm Rick Smith. I work
2 for the North Carolina Department of Public
3 Safety. I'm the Education Services Director.

4 MR. JOHNSON: I'm Adam Johnson. I'm
5 also with the Department of Public Safety with
6 Juvenile Justice, and I'm their Education
7 Director.

8 MS. VLASATY: Jennine Vlasaty. I
9 have two children, one with Down syndrome and
10 other medical issues and ADHD.

11 MS. MEBANE: I'm Teresa Mebane. I'm
12 from the Wilmington area. I have three children
13 on the autism spectrum, and I also work for the
14 Autism Society of North Carolina [inaudible].

15 MS. HUDGENS: Good morning. I'm
16 Carol Ann Hudgens. I'm the Section Chief for
17 Policy Monitoring and Audit here at the
18 Exceptional Children Division.

19 MS. OUZTS: Hi. I'm Heather Ouzts.
20 I'm Parent Liaison for the Exceptional Children
21 Division. And I wanted to let everyone know that
22 Jennifer DeGen or Mullis is on virtually with us
23 this morning from Charlotte.

24 THE COURT REPORTER: Good morning.
25 I'm Becky Scott. I'm the court reporter. I'll be

1 making a record of the proceedings today.

2 MS. BYNUM: Tish Bynum. I'm the
3 Administrative Assistant for the EC Director, the
4 EC Division, and this Council.

5 DR. JOHNSON: I'm Nancy Johnson. I'm
6 the coordinator for our State Performance Plan and
7 Annual Performance Report, and I'll be speaking
8 with you this morning. I think you've seen me at
9 the last several meetings with significant
10 disproportionalities.

11 MS. BIGLEY: My name's Sara Bigley.
12 I'm the new State Coordinator for Foster Care. I
13 fall under Donna Brown and Federal Program
14 Monitoring and Support, and I work out of the
15 Service Center at UNCG with George Hancock and
16 Lisa Phillips. I'm really excited to be here.

17 MR. HALL: I'm Eric Hall. I'm a
18 parent from Wake County.

19 MS. CARTER: I'm Anna Carter. I'm
20 the Director of the Division of Child Development
21 and Early Education, and we oversee child care
22 subsidies, the state pre-K program, and licensed
23 child care programs.

24 MS. HUTCHINSON: Christy Hutchinson.
25 EC Director for Lincoln Charter School which is

1 close to Charlotte-Mecklenburg Schools. And I
2 apologize. I don't really have a voice, so---

3 MS. MOOREFIELD: I'm Ginny
4 Moorefield. I have a son with a catastrophic
5 brain injury, and I'm also an interpreter for the
6 deaf as well as an American sign language
7 instructor.

8 MS. STALNAKER: My name is Ann
9 Stalnaker. I'm the Assistant Superintendent of
10 Programs for Exceptional Children in
11 Charlotte-Mecklenburg Schools, and Gina Smith sat
12 in this role before. So I'm in her spot today and
13 very excited to be here with you-all.

14 DR. CARPENTER: I'm Dale Carpenter.
15 I'm a faculty member at Western Carolina
16 University in the Special Education Program. I'm
17 the college/university representative.

18 MS. SIMMONS: Hi. My name is Vicki
19 Simmons. I'm an adapted PE teacher with Guilford
20 County Schools.

21 THE CHAIRPERSON: Thank you,
22 everybody for being here, and I hope everyone had
23 a safe trip here, and happy holiday season that's
24 coming upon us. Let's go ahead and -- I assume
25 everybody's had an opportunity to review the

1 agenda. We do have some time set out for
2 committees during lunch period or just after lunch
3 period, so if you want to spend that and have a
4 working lunch, your committee is welcome to do so.
5 We've got a lot of work we're trying to accomplish
6 in our committees today.

7 And we've taken a few minutes to
8 review the meeting minutes from September. I'll
9 give another three or four minutes to work on that
10 for those who just came in, and then we'll proceed
11 with a vote to accept those minutes.

12 **(Pause while committee reviewed the**
13 **September Summary of Actions.)**

14 MS. OUZTS: Leanna, I did want to
15 mention you will see in the September minutes that
16 Ms. Bynum was going to check to see if there was a
17 public comment that needed to be inserted, but
18 there was no public comment.

19 THE CHAIRPERSON: Okay.

20 **(Pause while committee continued to**
21 **review the September Summary of Actions.)**

22
23 THE CHAIRPERSON: Okay. Is there a
24 motion to accept the minutes as written?

25 MS. DANIELS-HALL: I make a motion to

1 accept the minutes as they're written.

2 MS. MOOREFIELD: Second.

3 THE CHAIRPERSON: All in favor?

4 **(Council members replied aye.)**

5 THE CHAIRPERSON: All right. Thank
6 you very much, everybody. Next up will be Nancy
7 Johnson with the Annual Performance Report and
8 more illustrious discussion on significant
9 disproportionality.

10 DR. JOHNSON: Good morning. Today
11 I'm here to talk to you mostly about our State
12 Performance Plan and Annual Performance Report.
13 This advisory council serves as our stakeholder
14 group, and every year we have to, on an annual
15 basis, submit our data and report our Annual
16 Performance Report related to our overall big
17 report -- it's a six-year plan, in essence -- to
18 the federal government about outcomes for students
19 with disabilities on different data points such as
20 graduation rates, assessment rates, but also
21 compliance issues, did we meet the 90-day timeline
22 for evaluating students and getting them placed in
23 special ed or determined noneligible for special
24 ed, as an example.

25 So this report is based on the

1 indicator data, and I'm going to be sharing with
2 you the data that we have to date. So, first of
3 all, I need you to write -- you do have a handout
4 in your folder, and I know the font's a little bit
5 small, but hopefully, you can see them and you can
6 take notes. I'm going to ask you to write "draft"
7 on the top very big.

8 We submit this report February 1st of
9 each year annually, so the report that I'm sharing
10 with you -- the data that I'm sharing with you,
11 we're not submitting until February 1st, and
12 sometimes we are changing data based on our
13 analysis or cleaning up data on the morning of
14 February 1st as we're submitting. So with that
15 said, I had to get this to Heather some time over
16 the weekend, I think, this weekend, and I've
17 already changed data in one of the slides and
18 added data to some slides. So this is a draft,
19 and some of this data can change and will change.

20 The State Performance Plan and Annual
21 Performance Report is part of our general
22 supervision responsibilities. As you can see, we
23 have several general supervision responsibilities,
24 but it is one of the key things that we report as
25 well.

1 This page is -- particularly for
2 those of you who are new and weren't here at last
3 December's meeting when I presented about what we
4 submitted last February, this is an overview of
5 each of the indicators. So, like I said, anywhere
6 from graduation, which is Indicator 1, all the way
7 to Child Find, our 90-day timeline, which is
8 Indicator 11.

9 Those are examples of the two
10 different types. Graduation and drop out, those
11 kinds of things are considered. Outcome
12 indicators, because they are specifically related
13 to student outcomes. And then examples like
14 Indicator 11, Child Find is considered a
15 compliance indicator because it's a requirement
16 where we have to meet a federal regulation
17 requirement. And I will look at each of those.

18 In this instance, we are
19 submitting -- this is our twelfth Annual
20 Performance Report we've submitted. It's hard to
21 believe that we've been doing this for 12 years,
22 but we have. So we will submit -- Indicators 1
23 through 16 will be submitted by February 1st.
24 There are 17 indicators, and I think last time
25 you-all talked a little bit about Indicator 17,

1 which is our State Systemic Improvement Plan. It
2 is a big plan within the plan, and we are not
3 required to submit that until April 1st. So we
4 get a little bit more time with that one, and it
5 will be our fourth submission for our State
6 Improvement Plan.

7 So with that said, I'm going to start
8 with each of the indicators. Some of this I'm
9 going to go through quickly. I'm going to talk
10 about some of the indicators as I talk to you
11 about them -- just so you know, we have to report
12 on -- we can add any kind of narrative that we
13 want, but we are required to report on any
14 slippage from a previous year, and slippage is
15 considered -- they look at two things. Did you
16 meet your target, and so targets are set for us.
17 Like compliance targets are typically 100 percent,
18 but some targets like graduation rate, we set as a
19 state and we follow the same rate that we follow
20 for all students.

21 So they look did we meet our target
22 and did we have slippage or not, and slippage is
23 considered decreasing your rate by more than one
24 percent of what it was in the previous year. So
25 it has to meet those two kinds of things for them

1 to calculate that it's slippage. As we enter our
2 data in the online system that we submit, it
3 automatically calculates that and a box pops up
4 and says, "You have slippage on this target," and
5 a box pops up where we have to explain what that
6 slippage is about.

7 So what I want to talk to you today
8 about -- because we don't have any real changes
9 this year in the annual report -- are a couple of
10 indicators where we might -- it looks like we
11 might have some slippage -- but again, we're not
12 finished analyzing the data -- and focus on those
13 things. Some of the indicators we've made
14 progress on, and we're happy about that, of
15 course, and some we're kind of maintaining. So
16 I'll share those kinds of things with you, but I'm
17 not going to go in depth for all of the
18 indicators.

19 Okay. Graduation rate, I think they
20 talked to you last time about our graduation rate,
21 and we're very excited about our graduation rate
22 continuing to improve for students with
23 disabilities. This is little bit hard for you to
24 see, and I don't know if we can turn those lights
25 out in the front so they can see, which will be

1 easier for them to see the numbers there than on
2 their handout.

3 But we have continued to increase our
4 graduation rate. The blue line is our four-year
5 cohort, so that's our students -- they follow
6 students from the time they enter ninth grade.

7 Thank you. If it gets too dark in
8 here, we'll fall asleep.

9 The four-year rate, we follow
10 students from the time they enter ninth grade,
11 and if they graduate within a four-year period or
12 sooner, they are in that rate, okay? The
13 five-year rate is the red line, and that's --
14 they follow the same group of ninth-graders, but
15 if they graduate within five years, they would be
16 in the five-year cohort. I put this chart
17 together with both because Indicator 1 is our
18 four-year rate, and our Indicator 17, which is our
19 State Systemic Improvement Plan, is the five-year
20 rate.

21 But if you'll look at the year that
22 says 2012-13, that is the year students enter
23 ninth grade, so this is the group of students
24 we're following, and you have a green rate up
25 there that says 68.9 percent. That is the rate

1 we're submitted in this February 1st report, but
2 that is a year behind. It is not students who
3 graduated in 2016-17; it's students who graduated
4 in 2015-16. We are always on a year behind --
5 it's on a year data lag, and that's the US Office
6 of Special Programs based on other reports we have
7 to submit.

8 Okay. So while that is the rate we
9 are reporting, we did make progress, but we also,
10 if you'll look, that next box over on the blue
11 line is 70.3. We already knew the rate for
12 2016-17 graduates, and we've shown an increase
13 there as well. So when we write our narrative, we
14 always add that in, that we've done this on our
15 target, but here is where we're increasing as
16 well. Yes, sir, question?

17 DR. CARPENTER: What's the overall --
18 all students?

19 DR. JOHNSON: All students was around
20 83 percent, I believe. It was over 80 percent,
21 and 80 percent at the time was our state target,
22 and we're trying to close that gap. I'll talk a
23 little bit more about the five-year rate when I
24 get to Indicator 17, but you can see that it's
25 increasing as well.

1 We've always had quite a number of
2 students and students with disabilities sometimes
3 and other students take a little bit longer to
4 graduate from school, which is okay, if they need
5 a little bit more time to actually get a high
6 school diploma. These are also in the numerator.
7 When we say "graduate," these are only students
8 who graduate with a standard high school diploma.
9 All of our students who are -- have IEPs that are
10 in that ninth-grade cohort are included in the
11 denominator, but they're only students who
12 graduate with a high school diploma. So if they
13 end up with a certificate or they age out, they
14 are not in the numerator, but they would be in the
15 denominator for the ninth-grade cohort.

16 The next one is drop out rate, and we
17 dropped just a little bit to 4.5. We had kind of
18 an increased bump last year, but we're at about
19 the same. We did -- that .2 percentage is a
20 little bit of a decrease, so we'll be okay with --
21 we won't have to report anything about slippage on
22 this one either. This rate is about twice as much
23 as it is for all students, but all students also
24 includes our students with disabilities.

25 MS. VLASATY: Nancy?

1 DR. JOHNSON: Yes.

2 MS. VLASATY: What's actually
3 considered a dropout? Like to homeschool or just
4 staying at home or---

5 DR. JOHNSON: No. No. If somebody
6 is in high school and they're actually registered
7 as a homeschooler and they're getting services,
8 that is -- they get counted as a student. Well, I
9 say counted as a student. They're not considered
10 dropped out necessarily. It depends on if they're
11 listed as a private school or whatever. But
12 dropouts are students who were actually enrolled
13 in school and, for whatever reason, when they
14 withdrew, they were not found -- they didn't find
15 them going to school somewhere else.

16 So if they go to a private school
17 somewhere else, that's still not considered a
18 dropout. And one thing I should say about the
19 difference in our drop out rate, it's an event
20 rate and it is based on one year's worth of data
21 only. It's not following the cohort group like we
22 do with graduation rate.

23 Indicator 3. I just need to remind
24 you that we had three different parts for
25 Indicator 3, which is our statewide assessment.

1 We had a 3A, a 3B, and a 3C. They officially this
2 year are -- they haven't required 3A, which was us
3 looking at how well our students were doing based
4 on the AMOs, our annual measurable outcomes for
5 all kids, but because of the Every Student Success
6 Act, that has changed. So this part 3A has been
7 officially dropped from the report this year, so
8 we won't -- we didn't have to report on it the
9 last two years, but this year is the official year
10 so it is dropping out of the report.

11 3B is about our participation on
12 reading and math, and in your handout, you don't
13 have any numbers. And, as you may recall last
14 year, those of you who were here in December, I
15 didn't even have numbers to share with you on the
16 day I presented because our state was still
17 working on getting the report to submit. The
18 report isn't due till later this month to the US
19 Office of Special Ed Programs.

20 So this data, again, is just data.
21 It is very draft form, but it's a good enough
22 indication that I can share with you that we are
23 at greater than 95 percent on all of our
24 participation rates for reading and math, grades
25 three through eight and high school. And when we

1 report data for greater than 95 percent -- if
2 anything is greater than 95 percent, we report it
3 as greater than 95 percent. So there's not really
4 going to be an indication of a difference from one
5 year to the next if it's over 95 percent.

6 But our rates -- I will share with
7 you that the data we are submitting, if it is
8 submitted the way it is to the federal government,
9 because they report the actual rates, our rates
10 did go up in participation as well, which meant
11 they really are over 95 percent at all grade
12 levels. And you may recall, if you were with us a
13 few years ago, our high school rates were below 95
14 percent, so we used to have to report about what
15 we were doing in high school because all of our
16 high school students were being tested, and this
17 does include kids on regular assessments as well
18 as our alternate assessments. So that's the
19 participation rates.

20 The proficiency rates. Again, these
21 numbers are not in your handout, but here they
22 are. I did put up the differences from the
23 previous year so that you could see that there is
24 no area where -- while we didn't have large
25 increases and we did have some -- what looks like

1 slippage here, we didn't have any slippage that
2 was one percent or greater. The closest area we
3 had to it being one percent or greater was in
4 grade four reading. You can see grade four
5 reading and grade four math went down the most.

6 So we will do -- we kind of analyze
7 by grade level, as we look at it in writing the
8 report, even if we're not reporting on slippage.
9 We had an increase in math at the sixth-grade
10 level that was pretty significant. It was our
11 largest increase. As you can see, grades seven
12 and eight -- grade eight particularly is still our
13 lowest performing area, and this has historically
14 been true.

15 So we know we need to really look at
16 what we do in middle school and even grade six so
17 that -- getting them ready for high school so we
18 can increase those high school rates too. But, as
19 we know too, by grade eight, if kids aren't doing
20 well, they're already thinking about possibly
21 dropping out of school, so we want to take a look
22 at that data.

23 We also -- Bill has always asked me
24 to share our State Level 3 Proficiency rate, and
25 I'm going to back up just for a second so I can

1 share with you, on this one, this data includes
2 only students who performed at Level 4 and 5,
3 which is college and career ready, on our
4 statewide assessments. This State Level 3 is
5 considered state-level proficient.

6 So when the federal government a few
7 years ago had us start reporting on college --
8 college and career ready proficiency, we kind of
9 revised our levels a little bit, but we do have a
10 State Level 3 Proficiency. And this data is,
11 again, about reading and math and what the rate is
12 of these kids who are proficient. We do believe
13 they're proficient in North Carolina's curriculum,
14 and there also right on the border of being able
15 to be bumped into that Level 4 and being college
16 and career ready.

17 So this is data that districts do
18 want to look at, how their students are performing
19 and some things that they might want to do to work
20 with those students and try to get them to
21 increase their rates. But, again, you can see
22 seventh and eighth grade, particularly in math,
23 was our lowest performing area.

24 Indicators 4A and 4B, I'm going to
25 kind of talk about these together because they're

1 pretty much the same. 4A is -- 4A and 4B are all
2 about suspensions of students with disabilities,
3 but it's only about long-term suspensions, so a
4 student that has a greater than ten-day suspension
5 in a school year. We are required to -- as you
6 know, I've been talking with you-all about
7 significant disproportionality, but for this
8 indicator, we're required to look at
9 disproportionate representation or significant
10 discrepancy as it relates to race. So 4A is based
11 on looking at any significant discrepancy in rates
12 of the greater than ten-day suspension and
13 expulsion of students with disabilities.

14 And then 4B -- 4B actually looks at
15 those districts that have had that discrepancy and
16 then have had that discrepancy due to the fact
17 that they are not meeting regulatory requirements
18 or the State has had some kind of noncompliant
19 finding, okay? So step one is really like 4A and
20 then 4B is a step one and step two, but to do even
21 step two, you have to have some districts
22 identified in step one.

23 So our good news is we don't have any
24 districts that have for this past year, the data
25 that we looked at -- now this, again, is a year's

1 data lag, so it's one of the indicators that's not
2 based on 2016-17 data. It's 2015-16 school year
3 data because we don't -- we just in November
4 submitted our data to the feds for the 2016-17
5 discipline data. But, anyway, we didn't have any
6 districts that had disproportionate representation
7 as it related to suspensions and expulsions that
8 were greater than ten days in a school year for
9 individual students, and again, that's based on
10 the seven -- we look at all seven race categories.
11 So because we didn't have any districts that had
12 disproportionate representation or what's referred
13 to in discipline as a significant discrepancy, we
14 didn't have to do step two. Step two ended up
15 being zero percent, so we met our target of zero
16 percent because this is a compliance indicator.
17 Yes, sir?

18 DR. CARPENTER: What's the definition
19 of LEA here, the 115 or 17 or so public school
20 systems and the charter schools?

21 DR. JOHNSON: Yes. This includes --
22 at that time, there were 275 and it included 115
23 traditional LEAs; it included all public charter
24 schools that year, even if some of them since have
25 closed. It also included any of our state-

1 operated programs, our educational entities like
2 the schools for the deaf and schools for the
3 blind. So that's where the 275 number came in.

4 Our least restrictive environment
5 data, not a lot to report here. We are at a level
6 of where we -- for the past couple of years, we're
7 maintaining -- we're meeting our targets because
8 we've exceeded our targets, but we are kind of
9 maintaining now. We're not seeing a lot of shift.
10 And what we have to report here is that first
11 group of bars that you see where we're at 68.8
12 percent, those are the number of students with
13 disabilities who received services, in 2016-17, 80
14 percent or more of the day in the regular
15 classroom.

16 The middle one at 14 percent were
17 those students who received their services in a
18 regular class less than 40 percent of the day.
19 Some of you might refer to that as separate class
20 students. Some of them might be in a separate
21 self-contained class or just receiving services in
22 a variety of special ed classes the majority of
23 the day, but less than 40 percent of the day.

24 And then separate schools plus, that
25 1.8 percent, that is any student who is placed in

1 a public or private separate school or residential
2 placement, homebound services, hospital
3 instruction. So our percentage there is 1.8, and
4 I will share with you that we are -- not only are
5 we meeting our targets and now we're kind of
6 maintaining that, we've exceeded our targets and
7 we're also exceeding the national averages in
8 these areas. So we -- as far as including kids in
9 regular environments as much as possible, we do a
10 pretty good job in comparison to other states.

11 Yes, Christy?

12 MS. HUTCHINSON: Can I ask a weird
13 question? So it looks like there's a decrease in
14 regular and separate school, which is awesome, by
15 like 3.7 percent, but the increase in the regular
16 setting is like six and a half percent. Is that
17 because the new students coming in when they're
18 placed were going to the regular setting
19 initially?

20 DR. JOHNSON: Well, one of the things
21 that is not here that you won't see reported
22 because we -- we report it, but we report it just
23 in a data report but not in the APR -- are those
24 kids that we refer to as resource setting that are
25 between -- in between 40 percent of the day and 79

1 percent of the day. They make up the remainder of
2 that percentage. And, as you know, some of those
3 kids sometimes slip into regular ed or they slip
4 into separate class depending on the year. Yes,
5 ma'am?

6 MS. MOOREFIELD: I'm not sure if this
7 question is relevant or not, but the increase in
8 the students in regular ed classes for 80 percent
9 or more, does that have anything to do with
10 elimination of ID moderate classes?

11 MS. VLASATY: ID mild.

12 MS. MOOREFIELD: Mild.

13 DR. JOHNSON: That, I wouldn't be
14 able to tell you because we don't collect the data
15 that way. We collect the data based on individual
16 students' IEPs and how an individual IEP is
17 reported about the time spent with regular ed
18 students or not. And when you refer to the
19 elimination of ID mild, that might be how a
20 district configures its programming.

21 So this is based on the amount --
22 this requirement is based on the amount of time
23 students are spending in regular education with
24 their nondisabled peers, and it's not -- so it's
25 not necessarily based on a class per se. It's

1 calculated based on the amount of time listed in
2 the IEP, okay? And that over time -- you need to
3 remember this is 12 years of time that it went
4 from 60.6 percent up to 66.8 percent. So it's
5 kind of a -- even though it looks like a large
6 increase, it's technically a gradual increase over
7 a 12-year period. Yes, ma'am?

8 MS. VLASATY: So on the surface, this
9 looks good, but do you have the breakout based on
10 disability category?

11 DR. JOHNSON: I do not have that. We
12 could with -- I hate to say it -- with the new
13 ECATS system, with our new data system. That is
14 the kind of data that we've been asking for, to
15 break those kinds of things out as well as break
16 out how -- where we can look at how kids in
17 regular ed at 80 percent of the time are
18 performing on statewide assessments. We can't do
19 those analyses right now with our old system, but
20 we're hoping that we'll be able to do it with the
21 new system.

22 MS. VLASATY: Because it would be
23 really telling to see what disability categories
24 fall in these groupings.

25 DR. JOHNSON: We did -- at one point,

1 I think we did some extra analysis several years
2 ago to look at that, but it takes extra time of
3 staff to do that and it was hard to ensure that
4 that data was accurate because we were having to
5 pull it---

6 MS. VLASATY: When we have the new
7 ECATS, you think---

8 DR. JOHNSON: When we get ECATS,
9 we're hoping -- I hate to -- we say that a lot.
10 We've been saying it, but we are hoping that
11 ECATS will allow us to do that in an easier way.

12 Okay. This is the least restrictive
13 environment for students ages three through five,
14 and here it's looking only at two areas. It's not
15 looking at those kids kind of in between; it's
16 looking at regular early childhood programming and
17 then separate special education class, separate
18 school, residential facility. So it's not looking
19 at kids in between that might get a combination of
20 programs.

21 But you can see that we did drop
22 slightly from -- in regular early childhood
23 programming from 36.9 percent the previous year to
24 35.9 percent. That is right at one percent. So
25 when that data is added in, I don't know if an

1 explanation box is going to pop up. They started
2 uploading our data, and they had an error in their
3 upload -- not us -- and it nulled our data for
4 this indicator. So I'm waiting for them to get
5 that fixed so I can see if that's going to be
6 indicated enough of a slippage that we have to
7 explain. Vivian James, our Preschool School
8 Coordinator, is looking at that to see, and we're
9 analyzing that data again to see if our data is
10 accurate.

11 And then you can see that the special
12 education class, separate school, residential
13 facility, et cetera, has -- we don't have a lot of
14 preschool kids, to my knowledge, in residential
15 facilities, but in separate placements, it has
16 gone up slightly, which that's the one we want to
17 go down. So we have increased our data there from
18 21.3 percent last year to 21.7 percent, but that
19 would not be considered enough slippage to have to
20 explain it, although again Vivian is looking at
21 that. And we do -- are getting anecdotal reports
22 at least from folks that kids are coming to school
23 with more serious issues now -- young kids -- and
24 that may be -- this data may be reflecting that.

25 Also, one other thing that you'll

1 notice on this chart -- and I think there's a
2 little note down there on the thing, but I can't
3 see it myself -- at one point regular ed was up at
4 51 percent, and then we had that big drop three
5 years ago, and that's because the definitions
6 changed in how we have to crosswalk data to
7 identify them. So this is -- truly more the
8 appropriate baseline is in the 35.9 percent.

9 Okay. Indicator 7 is our preschool
10 outcomes data, and just so you can understand,
11 SS 1 is Summary Statement 1 -- it stands for
12 summary statement -- and SS 2 stands for Summary
13 Statement 2. So for each -- there are three
14 outcomes within this indicator. The first outcome
15 is related to positive social interaction, the
16 second one is acquiring knowledge and skills, and
17 the third is self-help skills and each one of
18 those two targets.

19 The Summary Statement 1 is whether or
20 not -- on all three of them -- is whether or not
21 the student substantially increased his or her
22 rate of growth. Summary Statement 2 is whether or
23 not the student is functioning at age-level
24 expectations by the time they turn six or when
25 they exit the preschool program. So that we look

1 at both of those outcomes for each of these three
2 year areas. Yes, ma'am?

3 MS. MOOREFIELD: I'm sorry. Could
4 you just repeat the second target?

5 DR. JOHNSON: Yes. The Summary
6 Statement 2 are students who are functioning at
7 age-level expectations by the time they turn six
8 or by the time they exit the preschool program.
9 And, again, if anybody needed Summary Statement 1
10 repeated, it's students that have substantially
11 increased their rate of growth by the time they
12 exit preschool or reach age six.

13 One of the other things that you
14 might want to be aware about this, we collect data
15 only on students who have been in a preschool
16 program, ages three through five, for at least six
17 months. So if somebody comes into the program and
18 has been there for up to five months, they would
19 not be included in this data.

20 As you can see -- I'm not going to go
21 over all of these, but we have met some of our
22 targets or most of our targets or have not slipped
23 more than one percent -- in fact, some places we
24 have increased -- except for Summary Statement 1
25 for acquiring knowledge and skills. We did meet

1 our target because we're at 83.02 percent and our
2 target was 82.52 percent. So we met our target,
3 but we slipped more than one percentage point. So
4 OSEP -- that box won't pop up for us to type in
5 slippage because -- because we met our target.
6 But because we're looking at what we consider to
7 be a fairly significant decrease, where we have an
8 opportunity to write an narrative, again, Vivian
9 is looking at that and she'll be writing some
10 things like about what hypotheses of why we think
11 there was a slippage particularly in that area.

12 MS. CARTER: Are these children
13 served with an IEP in any setting or only if
14 they're served in a public school? They could
15 have an IEP and they might be in community
16 settings.

17 DR. JOHNSON: If they have an IEP and
18 the public school is responsible for that IEP but
19 they're not at the public school, they would be
20 included in this data if they meet the two things.
21 Kids in the middle aren't reported here, although
22 we report them in our child count data. Yes,
23 ma'am?

24 MS. VLASATY: How are the age-level
25 expectations defined?

1 DR. JOHNSON: Through COSF, which is
2 the Child Outcome -- Child Outcome -- it's a child
3 outcome survey -- standardized national survey
4 that is used and we can get that to you.

5 C-O-S-F is the acronym for it. Child Outcome
6 something functioning or something. Christy looks
7 like she's looking it up for me. But we can get
8 some information to you about that, and it is a
9 nationally normed thing. It's required for us to
10 use. That's what we are required to look at for
11 Indicator 7, so every state is using the same
12 thing, unless they've gotten some kind of waiver
13 to look at something else.

14 Okay. Parent involvement. This is
15 one we are going to have to explain. Heather's
16 giving me a look. We've gone round and round
17 about this one a little bit. Indicator 8 is about
18 parent involvement, and we look at LEAs that
19 reported schools facilitating parent involvement
20 as a means for improving their services and
21 results for children with disabilities. How we do
22 this one is through a survey that we send out, and
23 we sample -- we are allowed to sample LEAs so we
24 don't do every LEA every year. We do what is
25 considered not large LEAs every five years. So

1 every district generally, and that includes
2 charter schools, every five years they get this
3 survey to send out to a random sample of the
4 students. So it's not all. A random sample of
5 students' parents actually.

6 The five large districts -- and they
7 have to have 50,000 or more kids -- all kids, not
8 special ed kids -- so that would be Charlotte-
9 Mecklenburg, Guilford, Winston-Salem, Cumberland,
10 and Wake -- have to send out a survey every year,
11 but we do a random sample and it's different -- a
12 different set of parents each year that they have
13 to do a portion of, and that's in keeping with
14 what OSEP requires if we're using a sample rather
15 than doing everybody every year.

16 So we did not meet our target because
17 our target is 50 percent. That's not written on
18 here, but our target is 50 percent. Last year we
19 were at 46 percent, and we dropped three
20 percentage points. So the slippage box will pop
21 up with an explanation, and we will have to give
22 an explanation.

23 One of the issues we had, we had a
24 very low response rate this year. One of our
25 issues -- we had some trouble getting the survey

1 out. Just to let you know, we send the survey
2 out -- and Heather can kind of pop in here with me
3 because she handles a lot of this, but we contract
4 with a national center to collect the data for us
5 and analyze it and write a report, and they are
6 one of the centers that was involved with
7 developing the survey that we're using.

8 And we -- we've always struggled with
9 when to send this out, and this year it got caught
10 in the spring break time period for different
11 schools, and different schools have spring
12 break -- it's not like everybody's out the week of
13 Christmas and New Year's -- different schools have
14 different spring breaks, and we were struggling
15 with that a little bit. Heather, you might want
16 to add---

17 MS. OUZTS: Well, I would just say
18 too, we were hoping that if we went earlier that
19 we would get a better response rate, but then we
20 were backing up -- you either hit it on one end or
21 the other. When you're trying to get them to the
22 schools, you can hit that break, or if you're
23 trying to get them returned by the parents, you
24 might hit the spring break.

25 And so there's difficulty finding a

1 sweet spot, if that makes sense, because we cannot
2 send the data as early as maybe we would like
3 because we have to have the child count numbers
4 back from headcount in December. And so it's
5 always like a dance trying to get it out as early
6 as possible because, you know, if you hit the end
7 of the school year, it gets even crazier. But I
8 think too it's just really hard to know like if
9 your random sample of parents are going to respond
10 or not.

11 DR. JOHNSON: Yes. And it is a
12 random sample, and that's why we have to have the
13 child count. We have to have a certain -- it has
14 to look like our state. So it has to go into this
15 calculator and we have to figure out how -- we
16 have to do so many kids across grade levels or
17 things like preschool, elementary, middle, and
18 high school. We have to go across disability
19 categories to make sure that all disability
20 categories are covered and represented. We have
21 to go across race. So we have to do it based on
22 the child count and we do those calculations
23 before the surveys get sent out.

24 MS. OUZTS: I'm sorry. I was going
25 to say, and remember they have to like put it in

1 an envelope, even though postage is paid or
2 whatever.

3 DR. JOHNSON: So they have to mail it
4 back and they're mailing it back to a center
5 that's out of state. It's not even us that
6 they're mailing it back to. So we have talked
7 about the possibilities of looking at using --
8 other states have gone away from this national
9 survey that we're using and talked about looking
10 at other surveys or lessening the survey.

11 Right now there are 25 questions on
12 it, and so it's a little bit lengthy. And other
13 states have moved to fewer questions. Other
14 states have also done it differently and had an
15 online system where parents can enter their data
16 directly. So that is something that we will be
17 continuing to look at in the future because this
18 year was the lowest response rate we've ever had,
19 and when I get to Indicator 14, I'm going to tell
20 you some changes we made and really increased our
21 response rate. So we have some good news there,
22 and we can maybe apply that to Indicator 8 in the
23 future.

24 MS. GRADY: And so that's what you'll
25 put for the rationale when the box pops up, that

1 the low response rate is the reason, you think?

2 DR. JOHNSON: Well, the low response
3 rate is part of the reason, yes. And then we
4 will -- we will try to look more into the report
5 that I haven't had a chance to -- the report they
6 send us eighty-some pages long, so I haven't
7 really -- and it's pretty technical -- so I
8 haven't really gotten to look into it totally,
9 about the reasons why they think -- the people who
10 analyzed our data for us. So we will pull out
11 some other data. But our response rate was
12 less than -- it was just about ten percent, and
13 that is really low for as it has been in the past.

14 MS. OUZTS: I think the response
15 rate, though, is historically low.

16 DR. JOHNSON: It has been
17 historically low. The first couple of years, it
18 was high -- higher, but then it's gotten lower
19 since, and I don't know if it's people just get
20 numb to the fact. We've had -- a couple of
21 states -- one state went to a census and was
22 surveying parents online, because parents could
23 just get online and do it, every year, and then
24 they said -- they decided that that was too much,
25 that parents were in the school system and started

1 out as preschoolers and by the time they got to
2 twelfth grade, they weren't -- they weren't
3 answering the surveys anymore.

4 So they decided to not do all parents
5 every year, and they put in a system where they
6 did it -- maybe do the parents once in preschool
7 and twice in elementary school and once in middle
8 school and once or twice in high school, or
9 something, to spread it out somehow. But once you
10 start doing that, then you got to do your sample
11 plan and submit it to OSEP for approval. So right
12 now we have to continue to do what we're doing
13 until we would get approval from OSEP to change,
14 unless we go to surveying all parents every year.

15 Okay. 9 and 10 are disproportionate
16 representation due to inappropriate
17 identification, and Indicator 9 is about all
18 special education and Indicator 10 is based on
19 seven different disability -- or six different
20 disability categories. This is similar to looking
21 at disproportionate representation for significant
22 disproportionality, but it is just looking at
23 disproportionate representation in one year.

24 And, currently, our risk ratio for
25 identification is 3.0 and--- I'm looking there.

1 I have an error on my slide that needs to be
2 changed in terms of the N size. I still have 40
3 on one of the N sizes under ten. But, anyway, it
4 is looking at disproportionate person patient base
5 of 3.5 ratio. This is a two-step process. It
6 does look at the risk ratio, so every district
7 that has a 3.0 risk ratio. Then the second step,
8 we have to look at -- and that's written down at
9 the bottom of the slide -- we have to determine if
10 the disproportionate representation is a result of
11 inappropriate identification.

12 And when we say a result of
13 inappropriate identification, we're looking at
14 compliance. Did the district follow the
15 requirements for identifying students that are
16 spelled out in our state and federal regulations,
17 or did they have a finding of noncompliance and
18 not following our regulations? Did they have to
19 change their policies because of that?

20 A couple of ways we do that, all
21 districts submit their regulations -- when they
22 annually apply for their federal funds and they
23 assure that they're following the state
24 regulations and that those have been taken to
25 their state board and approved, and so that's one

1 thing.

2 We have in some instances -- not this
3 year but several years ago, we found where
4 districts hadn't updated their policies and
5 procedures to match new state changes in policies
6 and procedures. So we did have findings based on
7 those kinds of things. Or we might have
8 individual findings when we go out and monitor and
9 find that a district is not following the
10 regulations in terms of identification.

11 Okay. We haven't had that for a
12 while. Most districts are following the policies
13 and procedures, so their disproportionate
14 representation isn't necessarily due to a result
15 of a compliance finding for that part two. So you
16 see a lot of zeros in that second column where
17 we -- there were districts with a risk ratio of
18 3.0 and we looked at them, but they didn't have a
19 compliance finding. Yes, sir?

20 DR. CARPENTER: When will our change
21 in learning disabilities kick in on this?

22 DR. JOHNSON: That has to start being
23 implemented in 2020. July 1 of 2020. So there
24 won't be data on that until 2021. The first year
25 of reported data will be in the fall or December

1 of 2021 because the child count -- well, child
2 count 2020, you will have some students in there,
3 but a full year's worth of data won't be until
4 2021.

5 But if you'll look at the very last
6 row, the 2016 to 2017, the first column for
7 Indicator 9 and the first column for Indicator 10
8 are the number of LEAs that had risk ratios this
9 year of 3.2 in something. In Indicator 9, it's a
10 risk ratio of 3.0 for all students with
11 disabilities. In Indicator 10, those 44 LEAs had
12 a risk ratio of 3.0 in one of the six major
13 categories, either ID mild, serious emotional
14 disability, specific learning disability,
15 speech/language impairment, autism.

16 Okay. You can see that we have had
17 quite an increase this year in those LEAs. In
18 Indicator 9 for all disabilities, that is mostly
19 charter schools and it is mostly based on the
20 white population. So that increased. Then in
21 Indicator 10, that increase is also -- some of it
22 is -- it's a mix. Some of it is additional
23 traditional LEAs. Some of it is charter schools.
24 This is the first year we've ever had a number of
25 charter schools on our list with a risk ratio of

1 3.0, and some of it is based on we have -- now in
2 the 44 LEAs, we have some districts who are on the
3 list for students with autism who are white and
4 the district has gone over that 3.0 risk ratio.
5 So there are a lot of reasons, and I think we've
6 talked about them a little bit before.

7 But, anyway, in this indication, then
8 what we have to do is look to see are they
9 following policies and procedures, and I have a
10 question mark by those LEAs because we're still
11 working on that. As you can see, we have a
12 number -- last year we had one LEA that we had to
13 look at for Indicator 9 and 25 that we had to look
14 at for Indicator 10, and so it went a little more
15 quickly. We are still looking at some of the LEAs
16 to ensure that they're following policies and
17 procedures and it's not a result of noncompliance
18 in identifying kids. So those numbers are still
19 to be determined. Questions?

20 MS. CARTER: So the numbers of LEAs,
21 you know, in 2005 and '06 were much less than now
22 because now it's at 275 LEAs. It's 23 out of 275,
23 where back in 2009, it would be two out of much
24 less because there were---

25 DR. JOHNSON: Yes. Yes. Back in

1 2005-06, it was mostly traditional schools. We
2 may have had a few charter schools and we had no
3 charter school -- last year and the year before, I
4 think, were the first years we even saw a charter
5 school on any list, and they were -- just one
6 maybe charter school. This is the first year
7 we've had a significant number of charter schools
8 on the list. So, yes, these LEAs do include
9 charter schools.

10 MS. CARTER: But the percentage is
11 not -- I mean it's still there, but because your N
12 overall of LEAs has grown, it looks a little
13 different?

14 DR. JOHNSON: Yes, it does. That's
15 right. And it may be as a result of what we're
16 seeing in some instances that we believe where
17 kids have moved out of a public school in a
18 smaller district, and it's mostly white kids who
19 moved out and the charter school now is at 3.0 or
20 more for white students, that district where the
21 kids moved from -- that small district where the
22 kids moved from haven't really changed anything
23 that they're doing, but they're now
24 disproportionate for a race population -- for a
25 minority population, even though they haven't

1 changed anything they're doing other than those
2 kids moved to a charter school.

3 MS. HUTCHINSON: Nancy, this is old
4 data, so this is based on just students with
5 disabilities as compared to students with
6 disabilities [inaudible]?

7 DR. JOHNSON: No. The risk ratio is
8 based on students with disabilities compared to
9 all students within your district, the risk ratio
10 calculation. Now this is, again, with a risk
11 ratio of 3.0. Yes?

12 MS. VLASATY: This is just a
13 curiosity question. If you could, what would be
14 an example of a noncompliance in identifying a
15 student? Like you say that you -- you know, if
16 they're following policies and procedures. Like
17 what would actually be an example of noncompliance
18 to identifying a student?

19 DR. JOHNSON: Based on the different
20 categories of students, you're required to do
21 certain types of testing. If you chose not to do
22 that testing and determined that the child was
23 eligible and you only did it on part of the
24 testing and we saw that that was happening
25 systemically in your district, that you weren't

1 using certain like educational testing, that you
2 were placing kids without doing any educational
3 testing, that we might cite -- we would cite the
4 district for noncompliance, and that is related to
5 identification.

6 MS. VLASATY: Okay.

7 MR. HUSSEY: And an example of that
8 would be, back four, five, six years ago with ID
9 mild, people weren't using the adaptive rating
10 scales. They were just using IQ scores and that
11 was it. That would be -- that would be a real
12 example of how that could happen.

13 DR. JOHNSON: That is an example,
14 yeah. And it's not just did we find it with one
15 student in the district; it's that the district
16 has an issue with they're not doing it
17 consistently.

18 MS. VLASATY: And if I could add too,
19 I think, you know, that point kind of ties into
20 what I mentioned earlier about the placements by
21 specific disability because it would be
22 interesting to see if some of those criteria are
23 still being used. As a parent advocate, I still
24 do see a lot of children placed by IQ score. I
25 attend IEP meetings, and the school-based team

1 members will say, you know, this is the IQ, it
2 falls in the mild, moderate, or severe range. So
3 it's still happening. Like you said, so it could
4 very well -- you know, hopefully ECATS will---

5 DR. JOHNSON: While ECATS won't
6 necessarily pick up on all of that---

7 MS. VLASATY: No, no, no. But to see
8 if, you know, the majority of students with
9 intellectual disabilities are placed in a more
10 restrictive setting and then your reg ed will be
11 your SLD students compared to all the varying
12 disability groups.

13 MR. HUSSEY: That's an interesting
14 piece that we'll probably talk about a little bit
15 this afternoon in the law piece that I'm going to
16 go through. But I think one of the real questions
17 there is making sure that the IEP teams are making
18 those things -- making those decisions are using
19 appropriate data and appropriate pieces, and we've
20 got to be careful that we aren't looking at a
21 disability area and deciding that placing them in
22 a certain piece is wrong because of the disability
23 versus the individual child need.

24 And so I think that's just one of
25 those questions we're just going to have to keep

1 asking ourselves as we go through this. As we
2 look at inclusion, as we look at [inaudible], as
3 we look at all these pieces, that's going to be
4 part of that question we keep flipping around to
5 make sure that, you know, we are looking at it at
6 a child level, individual kid.

7 DR. JOHNSON: Two of our indicators
8 that are compliance indicators are our placement
9 timelines. This is 2016-17 data. Indicator 11
10 looks at our 90-day timeline for referring a
11 student and then determining whether or not
12 they're eligible and writing an IEP if they need
13 one. Our rate is at 91.91 percent, and our
14 required rate is 100 percent, but we did increase
15 by a very minimal amount. So at least we're
16 maintaining with the number of LEAs that we have.

17 And what OSEP looks at when they look
18 at this and how -- and what they look at is if in
19 a compliance indicator you're at 90 percent or
20 better, they're - it's not that they're okay with
21 that because you're supposed to be at 100 percent,
22 but that's -- you still get an okay in your
23 determination because you're at 90 percent or
24 better. If you're at 95 percent or better, you
25 don't even have to do a lot of explanation even if

1 you've had slippage, and I say that because if you
2 look at Indicator 12, we did have more than one
3 percent slippage there, so we will do a little bit
4 of explaining.

5 Again, Vivian is looking at and going
6 back over any district that has less than 80
7 percent to see why and see if their numbers are
8 correct, but we did slip a little bit. We're
9 96.48 percent which is -- we're not happy about
10 the slippage, but it's still above that 95 percent
11 where OSEP isn't going to require us to do a lot
12 of explanation about that.

13 And I just remind you always on
14 Indicator 12, 12 years ago when we first started
15 doing this, we got a very low determination score.
16 In fact, we got a needs assistance or intervention
17 or something because our score for Indicator 12
18 was below 50 percent. So we've done a lot of work
19 in our state to -- the districts have done a lot
20 of work in our state to ensure that they are
21 getting kids identified and served by their third
22 birthdays.

23 Indicator 13, transition. This one
24 sometimes gives me a little bit of heartburn
25 because we're always kind of -- we're struggling

1 with this data. Several years ago, we had
2 district self-identify and do their -- and report
3 their data to us, and our rates were fairly high.
4 For the last couple of years, our rates have been
5 in the eighties somewhere. Last year we did
6 increase to 88 percent. This year we're still
7 analyzing -- the monitors are still analyzing this
8 data. We switched how we're doing this. We don't
9 have LEAs self-identify. We identify these by
10 monitoring them.

11 So any district that was monitored in
12 the 2016-17 year, we also looked at IEPs for
13 students with transition, and when we're looking
14 at that, we have to look at the measurable
15 postsecondary goals, but we have to also look at
16 all these other requirements: Were the students
17 invited to their IEP meeting; were outside
18 agencies given -- if you were inviting outside
19 agencies, did parents give permission for those
20 outside agencies to be invited; were they notified
21 of that, and all those kinds of requirements.
22 There's a checklist from the National Technical
23 Assistance Center on transition that we use to
24 make sure they're meeting those requirements.

25 The good news is that we are above 90

1 percent on all the compliance requirements except
2 for the measurable postsecondary goals.

3 Oftentimes we'll find language in them that
4 implies that it's a goal for the child while
5 they're still in high school, and they're
6 postsecondary goals. They're what you want the
7 child to accomplish after leaving school. But we
8 are working on that.

9 They believe that our data for this
10 coming school year will be better, but the 2016-17
11 data, I can tell you it is going to be somewhere
12 in the eighties range again, but we might end up
13 with some slippage because I don't know if we're
14 going to be right at 88 percent because they're
15 still analyzing that data. The monitors collect
16 that data and they're still looking at that data
17 before they get it to me, but I've been able to
18 look at some of it with them and I know we will be
19 in the eighties.

20 So as long -- we never want to go --
21 I think one year we were below 80 percent a few
22 years ago and really had to do a lengthy
23 explanation. We never want to go below 80 percent
24 again and we do want to get above 90 percent. We
25 know we won't be above 90 percent this year, but

1 we also know we won't be below 80 percent this
2 year. And we're continuing to do a lot of
3 training in that area with Caldwell, and a team of
4 folks that work with transition do a lot of
5 training with districts in that area.

6 MS. MEBANE: So in that checklist, do
7 you include [inaudible]?

8 DR. JOHNSON: I am not sure that the
9 summary of performance is part of the checklist,
10 but if it is, it was not an issue in the districts
11 that we looked at this year.

12 MS. MEBANE: I say that because when
13 students are going to a postsecondary school, a
14 lot of times they ask to see that -- the
15 disabilities coordinator asks to see that summary.

16 MS. HUTCHINSON: I can tell you, as a
17 district that was monitored this past year, it is
18 not, and I actually talked to our monitors about
19 hey, would you ever give us feedback on that, and
20 of course, they will, but the child count that
21 they pull, it doesn't allow them to see the
22 seniors because they're pulling a current child
23 count. So when you do that summary of
24 performance, it's when the child is graduating,
25 and it's pulling a current child count. Do you

1 see what I mean?

2 MS. MEBANE: No, I don't understand.

3 MS. HUTCHINSON: [Inaudible]

4 timeline. So if they came on our campus in
5 January, they pull an active child count for that
6 moment. So they are requesting files of students
7 that are living at our campus right now receiving
8 services and monitoring those files. So when you
9 do the summary of performances is when that child
10 graduates from your district. So they never
11 actually get the files of the students who have
12 already graduated. I'm not doing a good job of
13 explaining.

14 DR. JOHNSON: I think what she's
15 saying is, anytime that we can look at the IEPs,
16 they're looking at the IEP that's currently in
17 place for that child, and if they haven't done
18 that ending IEP meeting as the child is graduating
19 that has the summary of performance in it,
20 that's not -- that's not part of the child's IEP
21 that we're looking at, at the time or the part of
22 the child's file that we're looking at, at the
23 time.

24 I see what you're saying now, so I can
25 probably answer this even though I don't have

1 everything that's on the checklist, but that would
2 not be included on the checklist because it's only
3 things that are required for all students ages 16
4 and up in the transition piece, and that summary
5 of performance isn't -- if the child's a tenth-
6 grader and we're looking at their transition---

7 MS. MEBANE: If you're trying to
8 measure if they met their postsecondary goals,
9 that would be an important---

10 DR. JOHNSON: That is not what this
11 is trying to measure. This is -- this indicator
12 is compliance only, and what it looks at is, was
13 that goal written in a compliant fashion. So it's
14 not really measuring how that goal is performing
15 for the child, is what I think you're getting at.

16 MS. MEBANE: It's not measuring
17 outcomes; it's just---

18 DR. JOHNSON: It's just whether it's
19 written in a compliant fashion technically, and
20 that's all this indicator measures. Yes, ma'am?

21 Ms. VLASATY: Could you just restate
22 how the data pool works? You said schools that
23 are being monitored or---

24 DR. JOHNSON: Schools that are being
25 monitored this year. If this school is being

1 monitored this school year, they---

2 MS. VLASATY: What are they being
3 monitored for?

4 MR. HUSSEY: There's a five-year
5 cycle. So every year there's a group of schools
6 in that five-year cycle that are being monitored
7 for compliance. So we go in and take a look at
8 what's going on, and actually, in some cases --
9 our monitoring process now also looks at outcomes,
10 but it's built into that five-year cycle.

11 MS. VLASATY: Okay. So there weren't
12 like any red flags or anything; it's just a pool
13 of---

14 DR. JOHNSON: Yes, it is the
15 five-year cycle of monitoring, and what they do
16 with Indicator 13, instead of us collecting how we
17 did it in the past where districts sent in their
18 own data for Indicator 13, while the monitors are
19 out, if it is a district or a school that has
20 children ages 16 and up -- actually, for us ages
21 14 and up -- they pull folders specifically to
22 look at transition for this indicator solely.

23 MR. HUSSEY: And as a local director,
24 to me this was the most frustrating piece because
25 you had the whole thing written out. I mean we

1 had sheets of paper that we handed to every
2 teacher and said this is what you're supposed to
3 put in there, and it was amazing how with even
4 that level of support -- that we're in the 80
5 percent range is still hard for me to understand
6 because it truly is just about compliance to what
7 the feds have said is absolutely necessary to be
8 there.

9 DR. JOHNSON: But I will say we have
10 improved on areas like -- we used to go to some
11 districts that didn't even invite their students
12 to the IEP meeting, and that's not a problem in
13 North Carolina anymore. It might be for an
14 individual student. I shouldn't say it's not a
15 problem, but we're in the -- way up, ninety-eighth
16 or ninety-ninth percentile on that as the
17 districts we monitored. But, again, each year
18 it's only districts we've monitored also, so it's
19 not all of the districts. It's only a fifth of
20 our districts. Yes, sir?

21 MR. SMITH: Nancy, is there follow-up
22 beyond secondary school as far as following the
23 individual once they've graduated and find out
24 what they're doing as far as education or
25 employment?

1 DR. JOHNSON: That's Indicator 14,
2 and we're going to talk about that in just a
3 second. Yes?

4 MS. MEBANE: I was just asking -- I
5 was just wanting to ask if you saw in the trends
6 in the different districts -- like is there a
7 difference between a large district and a small
8 district as far as compliance, or is it sort of---

9 DR. JOHNSON: Because I haven't seen
10 all of the data yet and the monitors are working
11 with it, they may be seeing some trends, but I
12 don't know specifically. I can't answer that
13 question for you right now. I could probably
14 after we finish analyzing the data.

15 Indicator 14 is postsecondary
16 outcomes. Indicator A is higher education and
17 students that are participating in higher
18 education, and that is two-year school or a
19 four-year school, and they have to be enrolled for
20 a certain amount of time and that kind of thing to
21 qualify for A.

22 B is a combination of higher
23 education or being competitively employed, and
24 there are certain requirements around competitive
25 employment like being paid minimum wage and

1 working a certain number of hours, and this is all
2 within one year after leaving high school. Even
3 higher ed -- well, of course, it's one year after
4 leaving high school.

5 And then C is a combination of higher
6 ed, other postsecondary education or training that
7 isn't higher ed, but it's some type of official
8 training, or being competitively employed or some
9 other type of employment like where you're working
10 in your parents business or you're doing some
11 other type of job shadowing or something that
12 counts as some type of employment where you get
13 monetary value for it.

14 Okay. As you can see, I don't have
15 any data yet, and I'll explain the reasons why,
16 but we are very excited about this. There is a
17 note -- and I think I messed it up on your slide
18 here and only put it in C. But we had
19 approximately this year 916 responders -- and I'm
20 saying approximately because I'm still analyzing
21 this data. And this is a sample. Again, we only
22 do so many districts every -- districts are done
23 every five years except for the large five
24 districts, and the large five districts do
25 different high schools every five years.

1 So these are kids who were in school
2 in 2015-16, graduated in 2016. They were out of
3 school for a year. They were surveyed this past
4 summer in 2017 to see what they were doing. Now
5 if you notice down there -- and this is why the
6 data isn't quite ready yet -- approximately 916
7 responders. That was an increase of 500 plus
8 responders from the previous year even though the
9 sample was the same amount. We have a sample of a
10 little over 2000 students when we do the number of
11 districts we do each year. That was a huge
12 increase.

13 Now one of the issues that we've had
14 is that we weren't getting as good a response
15 rate, but again, it was one that we contracted
16 out. Part of it was contracted to UNC Charlotte
17 and then they subcontracted -- they analyzed and
18 wrote -- analyzed the data and wrote the report
19 for us, but they subcontracted with a national
20 place in New York that was doing a lot of the
21 surveying, calling, interviewing students for
22 states.

23 And what we were learning is phone
24 numbers are wrong, kids -- they'd follow up. They
25 weren't getting good call back numbers. They

1 weren't getting whatever. If you're like me, if
2 you get an 800 number from somebody, you're
3 looking at it going, "I don't know who this is.
4 I'm not answering it," or if they did answer it
5 and they started telling them who they were, they
6 were like, "Who is this," or whatever.

7 So we, this year, did not do the
8 contract that we normally do, and we trained
9 districts to do these surveys and interviews
10 themselves with their students, following up, and
11 I will tell you we were so excited because
12 districts really worked hard and did a good job of
13 contacting their folks, and I even had a couple of
14 teachers at one of our regional meetings in
15 September tell us -- they happened to be at the
16 regional meeting and they were so excited. They
17 said they found -- they said, "Well, if we didn't
18 have the phone number, we just got on social media
19 and we found them on their Facebook account."
20 Well, contract company in New York isn't going to
21 be able to do that.

22 First of all, districts found more of
23 their kids and found out what they were doing, and
24 the teachers said that they were so excited to go
25 back to their schools and to their districts to

1 report what these kids were doing and to see that
2 it is making a difference.

3 Now I will share with you, based on
4 preliminary -- but I'm not reporting any numbers
5 yet because we haven't finished analyzing the
6 data -- we are going to be -- in C, which is a
7 combination of all the different areas, we are
8 going to be as high -- we will not have
9 slippage -- we are going to be as high or higher
10 in that area than we have been, and last year we
11 were at 78 plus percent -- 78-point-something
12 percent in C. But, again, it's a combination of
13 A, B, and C.

14 I do believe that we are going to be
15 a little bit lower in higher education in A and
16 have a higher area -- because I think -- even
17 though I say we're going to be at least at 78.8
18 percent, I think we're going to be maybe even
19 close to 90 percent in C, and here we are going to
20 increase that number and have increased the number
21 of respondents we've had, which is a big deal,
22 because a lot of times when you increase the
23 number of respondents, you might decrease your
24 outcomes.

25 But if my numbers are correct, we

1 might have a slight decrease in A, but we would
2 have an increase in B, and then an increase also
3 in C. But even the slight increase in A would not
4 be enough to be a slippage. It's more of a
5 maintaining, and I will tell you that we are
6 starting to see more kids taking advantage of
7 community college rather than a four-year program,
8 starting out at community college, and that's not
9 just true, I don't think -- now this is anecdotal,
10 but I don't think it's just true with students
11 with disabilities.

12 My office is at UNC Charlotte, and we
13 just got a report that our president sent out that
14 47 percent of our incoming students this year at
15 UNC Charlotte were coming in from a community
16 college. 47 percent of the incoming students this
17 year had taken advantage of going to community
18 college first and transferring. So that would not
19 be unusual for our students either.

20 Are there questions about
21 postsecondary?

22 **(No audible response.)**

23 DR. JOHNSON: Okay. Real quickly,
24 I've got a couple more to do, and then we'll talk
25 about significant disproportionality before lunch.

1 Resolution sessions and mediations
2 are Indicator 15 and 16, and you can see we're
3 going to have some explanation to do about
4 resolution sessions. What it's measuring is how
5 many resolution sessions that were held, and these
6 are once a due process hearing is requested,
7 parents and school districts are offered a
8 resolution session or meeting to try to resolve
9 their differences, how many of those were resolved
10 through settlement agreements, what percentage.

11 And then Indicator 16 is mediations,
12 and that is of mediations -- and those are
13 mediations before due process and mediations after
14 that happened -- once a due process has been
15 requested, you can offer an opportunity for
16 mediation even before going to a resolution
17 session, and so those include those two types of
18 mediations.

19 So you can see we have dropped a
20 little bit more than ten percentage points in
21 settlement agreements that were the result of
22 resolution sessions, but we're talking small
23 numbers here. We're talking -- I think there were
24 26 resolution sessions in the whole state in
25 2016-17, and ten of them ended in settlement

1 agreements.

2 Mediations. I think we had 38
3 mediations that were actually held, and 30 of them
4 resulted in reaching an agreement. So we've
5 increased there in mediations, but we decreased in
6 resolution sessions. And one thing we know, by
7 the time people get to the resolution session,
8 you've already requested a due process hearing.
9 Parents and schools on both sides feel like
10 they've done everything probably they can, and by
11 that time, they've requested a due process
12 hearing. Some people want to go to the due
13 process hearing, but go through the resolution
14 session as a matter of formality to get to the due
15 process hearing because you've got to have that
16 resolution session first, but they want to be
17 heard in a due process hearing.

18 While we have to report this data and
19 we can do training and assistance and that kind of
20 thing, it's hard for us to know what the outcome
21 of each resolution session is going to be, whether
22 it's going to end up in an agreement or not. So
23 this data -- I think one year it increased quite a
24 bit and then another year it decreased. It just
25 fluctuates. It's hard to tell.

1 Mediations tend to be more successful
2 because a lot of them are before a due process has
3 ever been requested so the communication hasn't
4 broken down quite so much, or some of them that
5 are requested are right after a due process has
6 been requested and people are still a little bit
7 willing to talk, I think, and try to work out
8 their differences because for the most part, I
9 think people go into all of this wanting to
10 communicate with each other and wanting to talk
11 about resolving their issues. They might not
12 agree on what the issues are or they might not
13 agree on what the outcome should be, but I think
14 that they all go into the sessions with wanting to
15 resolve these. So just with that said, this is
16 what our data is, and we're pretty pleased,
17 particularly with the mediations.

18 Indicator 17, I'm not going to go
19 through a lot of this because I think they did
20 this in September, but it is our State Systemic
21 Improvement Plan, so it's our big plan within the
22 plan and it is based on outcomes for children.
23 This was all the requirements in there about what
24 we had to look at when we first developed it, and
25 as I indicated, we'll be submitting for the fourth

1 time on this indicator, but it's not due till
2 April 7th. So you can keep clicking through
3 those. I'm not going to read all that to you.

4 Each year, it was kind of a phase in.
5 We first had to do a lot of data analysis and
6 develop the big plan. Then we -- the next year we
7 had to talk more about our infrastructure and
8 supporting the plan. Last year for the first
9 time, we had to start talking about the evaluation
10 results of our plan and making revisions to our
11 state plan -- to our State Systemic Improvement
12 Plan. And this year will be a continuation of
13 that phase three where we're continuing to report
14 evaluation results and making any revisions we
15 might see as necessary.

16 And, again, I'm sharing this same
17 slide because the red line is our indicator -- is
18 our five-year cohort, and we did meet our target.
19 Our target was below 73.1. You can see I've got
20 that in green. That is the data we will -- the
21 actual data will be reporting for Indicator 17,
22 and I think Bill or Matt gave a lot of information
23 about our graduation rates at the September
24 meeting and it's in your meeting notes.

25 MR. HUSSEY: I think the significant

1 piece there is that we are actually improving that
2 rate at two times the rate of regular education in
3 the five-year cohort. So we're making significant
4 gains and we're making significant gains against
5 the regular ed population as well.

6 DR. JOHNSON: And we're saying "we,"
7 but we want to give kudos to our districts---

8 MR. HUSSEY: Yes.

9 DR. JOHNSON: ---and parents and
10 schools working together to make that happen.

11 MR. HUSSEY: So that's the very real
12 point.

13 DR. JOHNSON: Because our data is
14 your data. Okay. With that said, again, a lot of
15 times if we have a change -- if we're changing
16 targets or we're changing a definition or making
17 any changes, we would get feedback from you on
18 what we're doing, but this year we don't really
19 have any changes other than we're going to have to
20 report on a couple of areas of slippage. If you
21 have any input that you would like to give there
22 or any other questions that you might have?

23 MS. HUTCHINSON: How come the annual
24 report doesn't line up with the State Report Card
25 when it comes to reporting participation and

1 efficiencies in the high school subject areas? It
2 just lumps them together. Is that because the
3 difference of course work in high school, or do
4 you know what I mean?

5 DR. JOHNSON: She's asking why our
6 Annual Performance Report does not line up with
7 course -- end-of-course types of things. Because
8 required -- in their regulations, they require us
9 only to report on reading and math. So for our
10 high school, what we report on, it's not actual
11 courses per se. They do a -- and I can't even
12 tell you the exact formula, but how they figure
13 out what the reading scores and which grade
14 levels, what test scores they're pulling for
15 reading, it's a combination of English -- certain
16 English classes and some other things and math
17 classes. It's not each individual course that
18 they're looking at. It's only reporting on the
19 performance of reading and math, and there's a
20 definition for how that's done.

21 MS. HUTCHINSON: So it's not a direct
22 correlation to English II or math---

23 DR. JOHNSON: No, it is not a direct
24 correlation to one subject area. It's not even a
25 direct correlation to a grade level. At one

1 point, it was, but there could be an eleventh-
2 grader taking -- being reported this year when
3 tenth-graders -- other tenth-graders are being
4 reported because of the courses that they are
5 pulling the data from.

6 MS. HUTCHINSON: And earlier I think
7 it was Teresa or maybe Jennine that asked about
8 COSF. It's a Child Outcome Summary Form.

9 DR. JOHNSON: Child Outcome Summary
10 Form. And we will try to get a copy of that to
11 you. Vicki?

12 MS. SIMMONS: What kind of data is
13 collected by us for OSEP for students with
14 significant cognitive disabilities?

15 DR. JOHNSON: Okay. She's asking
16 what kind of data is collected. We do -- even
17 though this is an Annual Performance Report that
18 we submit this data, we collect all the data for
19 students with disabilities and report that through
20 the child count. So there are data reported for
21 each type of disability and the number of kids in
22 those disability areas.

23 And then we have -- they have what
24 they call an end-of-year report, and in the
25 end-of-year report that we submit to OSEP, we have

1 to report how kids have exited special education,
2 whether they exited with a regular high school
3 diploma, if they aged out, if they died, if they
4 ended up leaving school with a certificate. As
5 you know, if they leave school with a certificate
6 but they're not 21 yet, they can come back and
7 re-enroll and finish school. So they could get
8 reported leaving school with a certificate one
9 year and then come back and finish something and
10 somehow maybe graduate or age out. So they might
11 be counted in another year later.

12 But that report is reported on an
13 annual basis. That goes in, in the fall. So we
14 do report that number. So we could get those
15 numbers to you. Now it's not -- it is probably
16 broken down in the report. Our summary report is
17 just the numbers, how many kids left school with a
18 certificate. We would have to go back into the
19 data and see how many of them had significant
20 cognitive disabilities and break it out by
21 disability category, but we could get those
22 numbers for you if you're interested. That is not
23 something that we're required to report in the
24 Annual Performance Report. Yes, ma'am?

25 MS. VLASATY: I have a question along

1 the lines of that. So understanding there are
2 only certain pieces you need to report, is the raw
3 data available out there for us to look at?

4 DR. JOHNSON: Yes. I do believe we
5 report on our website under Data and Reports our
6 end-of-year reports. This end-of-year report for
7 last school year for 2016-17 went in this fall, so
8 I don't know if it's up on our website yet. But
9 last year's would be, I believe.

10 MR. HUSSEY: That would be the
11 report, not the raw data.

12 DR. JOHNSON: Yeah. It would be the
13 report with the overall numbers, not numbers
14 necessarily by individual districts or broken out
15 by disability category, but it would be the data
16 to show how many kids overall in North Carolina
17 graduated -- or left school with a certificate.

18 MS. VLASATY: So is there a way to
19 view the raw data? Like, for example, there are
20 some reports that you would go into and they have
21 the pie charts or they have the bar graphs, and
22 when you would click on it, it would give you
23 the---

24 MR. HUSSEY: Numbers of [inaudible]?

25 MS. VLASATY: Yeah, the numbers that

1 make it up, and then it could be viewed that way.
2 Again, I'm not a data analyst, you know, myself,
3 but---

4 DR. JOHNSON: That would be something
5 that we would have to follow up with our data
6 management group and see how much of that data
7 we -- the data is public information like for a
8 public information request, but how much of that
9 data is---

10 MR. HUSSEY: Yeah. The DMG, the data
11 management group, would have to -- you would have
12 to ask and state a specific request around --
13 because even -- I mean you're going to have to be
14 specific as to what raw data you want to see. It
15 can't be we just want to see all the raw data, and
16 so -- and I know that sounds like a pain, but---

17 MS. VLASATY: No. And there wasn't
18 anything specific, but---

19 MR. HUSSEY: ---but it really is for
20 the protection of that data. It's interesting
21 because, as we're trying to free up more data
22 through ECATS, we're battling our own DMG just to
23 get some of that stuff so that we can see it in a
24 different way than what we've been able to
25 historically see it.

1 DR. JOHNSON: And that is true
2 because we don't even necessarily see all the data
3 as it comes in to build the report. We see the
4 report and do our basis on the report. Now
5 whatever is reported on our website, of course,
6 is -- you have access to, but beyond that, you can
7 request it.

8 MR. HUSSEY: But it is all public
9 information, so you can get it. You just have to
10 ask specifically for it, and it has to go through
11 certain clearances and define the purposes for the
12 use of the data and those kinds of things.

13 DR. JOHNSON: And one of the
14 things -- one of the reasons for that too is they
15 have to mask data that's less than -- if there's
16 less than ten in a cell, they don't report that
17 data publicly because it could be personally
18 identifiable for students.

19 MS. VLASATY: Yeah. I had went to
20 you with a question on that because we used to use
21 child count, and then we were -- through a special
22 education PTA actual committee to help liaisons
23 know how many students were in a particular
24 school, and I'm like what are all these X's, I'm
25 like, because when add it, it doesn't total up to

1 the number that you have. And that explained it
2 because if there's less than---

3 DR. JOHNSON: Because the X's were
4 less than ten in a cell. Yes, ma'am?

5 MS. COFFEY: In February when this is
6 done, will we have access at least to the report?
7 Is it on the website or -- because I mean for the
8 numbers like that are missing in this report?

9 DR. JOHNSON: Yes, it is -- it
10 doesn't go up on the website until after -- June
11 1st we have to report all of our LEA public
12 reports, and at the same time, we submit our final
13 report. And the reason it doesn't become final
14 until then is OSEP gives us a chance for a
15 clarification period sometime in April, and we are
16 allowed to make any changes that they ask us to
17 make or if we found some data issues that we need
18 to make some changes, and then we clean it all up
19 and get a final report out. It is always right
20 now on our CECAS website. I thought I had
21 submitted it to somebody to get it up on our
22 overall website for this past year, the one that
23 went February 1st this past year, but I noticed
24 the other night -- I looked and it still wasn't up
25 there, but it is on our CECAS website. You get it

1 through that. But I'll check again and make sure
2 that the other gets it. It's supposed to go up
3 around June 1st, is the time it goes up. But we
4 may also, if we want, send it to the Council.

5 MR. HUSSEY: We can send it out.

6 DR. JOHNSON: For those of you who
7 weren't here last year, last year in March, I
8 updated you on our assessment data because we
9 didn't have it at the time of the meeting. So I
10 came back and we talked a little bit about our
11 assessment data.

12 Okay. Do you-all want to take a
13 quick break before we talk about significant
14 disproportionality, or do you just want to keep
15 going because it's almost lunchtime, and just take
16 personal breaks if you need?

17 THE CHAIRPERSON: All in favor of a
18 break? Okay. We'll have a break, then. The
19 court reporter needs a break. That's fine.

20 **(A brief recess was taken from 11:28**
21 **a.m. to 11:36 am.)**

22 THE CHAIRPERSON: All right. If we
23 can all come back to order and continue our great
24 discussions on everything. Thank you, everybody.

25 DR. JOHNSON: I do want to have a

1 brief discussion with you, update you a little bit
2 about where we are with significant
3 disproportionality and get some -- just have a
4 discussion with you to get some feedback from you
5 about your recommendations from September, and I
6 guess I should ask how many of you were actually
7 here in September because I was not. I was on the
8 phone. So I don't know if everybody was here.

9 THE CHAIRPERSON: Most of us were
10 here.

11 DR. JOHNSON: Most of you -- most of
12 you were here. Okay.

13 MS. OUZTS: Yes, not everyone was in
14 on the webinar on the conference call.

15 DR. JOHNSON: Okay. I was not on the
16 conference call either. So if you would, pull out
17 your sheet that's in your handout that is the
18 webinar summary because I am going to ask a few
19 questions about this, and just a couple of things
20 to update you on before we talk.

21 First of all, I do think one or two
22 of you may have tried to email me and ask some
23 questions on my NC DPI email, which I don't -- was
24 not working regularly because I was forgetting to
25 change my password because it's not what I

1 normally use. So I would ask that -- I think on
2 the PowerPoint I gave you, I do have my UNC
3 Charlotte email, which is where my office is, and
4 that is my main email.

5 The NC DPI email, also I was having
6 some trouble with -- UNC Charlotte was trying to
7 connect it for me so that I would just get one
8 email downloaded instead of having to log in to
9 more than one email account, and it messed it up
10 at one point and I wasn't getting emails. So if
11 you email me at NC DPI and I don't respond, that
12 is my fault for not responding, but it is because
13 of password issues and other [inaudible] UNC
14 Charlotte email. So that's one thing.

15 Secondly, I did want to give you an
16 update about significant disproportionality. As
17 I've told you in the PowerPoint that I used -- I
18 think we met this summer in June. We did indicate
19 that we are required to be ready to go with the
20 new regulations called Equity in IDEA as of July
21 1, 2018, and that prior to that, we would be
22 submitting all of our changes to our current --
23 the current procedures that we use for significant
24 disproportionality through some process. And the
25 process that they've said they've decided was that

1 we would send it in our annual application in May,
2 which means we would have to have all of our
3 decisions completed by next May.

4 But I do need to update you that
5 there has been, we thought at first, rumors
6 swirling around but now have had them confirmed at
7 our national meeting we were at in November, and
8 based on some regulations that came out, that the
9 US Office of Special Education Programs is looking
10 at postponing these regulations possibly for two
11 years to consider the implications to states.
12 That's not definite, though. They're still
13 reviewing things and reviewing whether or not
14 they're going to put it out. They have drafted a
15 notice of proposed rulemaking that they hadn't
16 released, but it got leaked out somehow. So
17 that's how states kind of found out about it.

18 But since then they have released
19 some proposed -- a notice of proposed rulemaking
20 about our annual application that's due in May
21 that now is official that we are not going to be
22 required to submit our decisions in our May
23 applications. So we're -- even though the
24 regulations are still in place that we have to
25 start the new regulations -- and I say "new

1 regulations." We're already doing significant
2 disproportionality determinations, but we would
3 have to do them based on our revised processes.

4 By July 1, 2018, we need to be ready
5 to go. We don't need to submit like our cell
6 size, N size, risk ratios, how any of those things
7 that we're making decisions about -- we're not
8 being required now to submit them in May to OSEP
9 for their review and approval kind of thing.

10 So along with that in the same notice
11 of proposed rulemaking, there was information in
12 there that officially let us know that they are
13 considering whether or not they're going to delay
14 these regulations. Now it's December, and if they
15 decide not to delay them, we still have to be
16 ready to go July 1. If they do decide to delay
17 them, then states will have to make the decision
18 are they going to delay.

19 What Ruth Ryder, who is the acting
20 assistant or the acting Director of the Office of
21 Special Education Programs right now, told us at
22 our November meeting is that she is not sure when
23 a decision will be made, but she would -- if she
24 were in our shoes -- she certainly can't tell us
25 what to do, but if she were in our shoes, she

1 would proceed as if the requirements will be in
2 place July 1, and then if they don't have to be,
3 then you're okay too.

4 However, one thing that they also put
5 in these comments is that if they do delay them
6 and some states choose to go ahead and implement,
7 they may then use those states' data to make
8 decisions, which is interesting because we've been
9 discussing it here. And, as we've talked, Bill
10 has made a decision that he thinks that we should
11 move forward with them no matter what, even if
12 OSEP doesn't make us implement them July 1,
13 because we've already done a lot of work to this
14 point. We've already gotten a lot of stakeholder
15 input, input from this group, but also other
16 groups. So he did just tell me a few minutes ago
17 that I could share that with you that his belief
18 would be that we should move forward.

19 One of the other things to let you
20 know about is that some of the new regulations we
21 already have in place, so we're not making as many
22 changes as some states are making. The only thing
23 that concerns us is, if we choose as a state to
24 move forward and a lot of other states don't
25 choose to move forward, that we'll be one of the

1 states and they'll be analyzing our data more
2 closely to make decisions about. So we have got
3 to keep that in mind, and that's one of the
4 reasons we need to consider that when we consider
5 risk ratios and things like that.

6 But with those things said, we wanted
7 to share that with you because now it is --
8 before -- like I said, before November it was a
9 rumor that was swirling around and people were
10 asking questions about it. When we were at the
11 meeting with Ruth Ryder in November, she said, "I
12 know you're going to ask me about this so I'm just
13 going to talk to you about it right now. Yes, the
14 rumor is true," and all those kinds of things. We
15 got it confirmed with her, she talked about it,
16 and then the notice of proposed rulemaking came
17 out to let us know that we didn't have to submit
18 and get our decisions approved. So with that
19 said -- and, again, that they're still making a
20 decision about whether it's going to be required.

21 MS. CARTER: Quick question?

22 DR. JOHNSON: Yes.

23 MS. CARTER: So it sounds like we
24 might be concerned if we did move forward that
25 then our data would be being used. Why would we

1 be concerned about our data being used to then
2 make decisions for moving forward?

3 DR. JOHNSON: And I say be concerned
4 about our data being used. Not necessarily be
5 concerned, but we've been -- one of the reasons
6 they changed the regulations the way they've
7 changed, they felt like states weren't finding
8 enough -- identifying enough districts with
9 significant disproportionality in the three
10 areas that you have to look at -- identification,
11 placement, and discipline -- because some states
12 weren't finding any LEAs with significant
13 disproportionality.

14 We've always been one of the states
15 who has identified districts and had districts on
16 the list, so we've been doing more than a lot of
17 states. They used to say, "Well, we only had a
18 handful of states that were ever identifying
19 anybody." We were already one of the states --
20 one of the handfuls of states who were
21 identifying, and I think it was more than a
22 handful, but when you consider 50 states and five
23 territories, there were some states that didn't
24 identify anybody.

25 So they used that lack of data to

1 make the decisions about the proposed regulations,
2 but then to come back and then use our data -- we
3 just don't know how the data is going to be used.
4 When they say they look at states' data, we don't
5 know if they'll ask us for additional data or if
6 it will require extra work on our part or if it
7 were to require -- how they will use that then to
8 make decisions about what regulations they
9 propose.

10 And while we can say that a lot of
11 our things are similar to what they've already
12 proposed, that sometimes we've noticed that some
13 unintended consequences happen based on what they
14 say they think is happening in a state or what
15 they say states say they want, and then when it
16 goes into regulations and we read it, it's like
17 wait a minute. This isn't what we were saying.

18 So there's some kind of concern that
19 you might look at -- what if I were one of five
20 states that went ahead and decided to look at and
21 use the regulations as they were and they used our
22 state's data and these four other states' data to
23 make decisions about what the regulations should
24 look like? It might be a benefit to us, but it
25 also may -- I don't know. It's just using a small

1 set of data to make big decisions, which they do.

2 Yes, ma'am?

3 MS. STALNAKER: So is one part of the
4 new regulation the fact that you could use -- the
5 disproportionality funds could serve outside of EC
6 as well as within EC? Is that still what's being
7 considered part of it?

8 DR. JOHNSON: Yes. So far the
9 regulations piece -- the only thing that has
10 changed to date is that we don't have to submit
11 our decisions to OSEP. So, yes, the regulations
12 are still -- the new regulations are still in
13 place as they are for certain pieces of it -- for
14 mandatory significant disproportionality that 15
15 percent of the funds can also be used for students
16 with disabilities. If you're voluntary
17 permissive, when using the CEIS funds, you cannot
18 use them on students with disabilities. So those
19 regulations still are in place.

20 Are there other questions? Yes,
21 ma'am?

22 MS. GRADY: Is OSEP seeking comments
23 on preference for moving forward with the
24 regulations or to postpone? Are they seeking
25 comments on that?

1 DR. JOHNSON: A question about
2 seeking comments on proposed moving forward or
3 not. Because they have these in place as of July
4 1 -- these actually went into effect last year
5 when they were -- well, in January because they
6 were released in December of last year. So they
7 would have to come out with a notice of proposed
8 rulemaking to do away with them, which then would
9 require a comment period.

10 So, yes, they would have some kind of
11 comment period, but it's -- like I said, it's
12 December, and by the time they get out a notice
13 and get comments and then analyze the comments and
14 then actually do it, it might be bumping right up
15 probably till the July 1 date. Yes, ma'am?

16 MS. VLASATY: So after getting the
17 various stakeholder input, at this point, is there
18 any change in the numbers based on input?

19 DR. JOHNSON: Change in the numbers?

20 MS. VLASATY: Like for the risk ratio
21 or---

22 DR. JOHNSON: Okay. So that's what I
23 wanted to discuss now with you---

24 MS. VLASATY: Oh, okay. I'm sorry.

25 DR. JOHNSON: ---as we go over this.

1 So if you-all will look at the chart that you-all
2 submitted, a couple of things. And I do want to
3 say that I think I made an assumption when I
4 presented to you -- earlier presented about
5 identification and discipline because in placement
6 we follow the regulations as they are. We use a
7 risk ratio of 3.0. Our N size is 30. The only
8 thing we don't follow is the cell size of ten, and
9 so we would have the same number of LEAs
10 identified if we chose a risk ratio of 3.0.

11 So I didn't even share that
12 information with you, and based on that, I realize
13 the last time I met with you-all--- I didn't meet
14 with you-all, I did it by webinar, and then I
15 wasn't there for the discussion about that.
16 ---that we never talked about placement like I did
17 with the other stakeholder groups. So that's one
18 thing I need to do briefly this morning is talk
19 about placement, but I do want to also talk about
20 identification, discipline, and in-school and
21 out-of-school suspension.

22 Based on this, because I wasn't in
23 the discussion that -- I guess I would just like
24 to hear if you had concerns about or questions
25 about the decisions you were making. Some of you

1 did make recommendations that were different for
2 different categories, which was fine, but some I
3 got the sense -- based on the information that I
4 got back, thought that you had to pick the same
5 risk ratio across the board. So I did want to
6 mention that.

7 First of all, we do not have to
8 recommend the same risk ratio across the board.
9 We can actually -- you may recall I said we had
10 92 -- I think 92 -- ninety-some calculations to
11 do. We could recommend 92 different risk ratio
12 calculations, not that I would ever recommend
13 that. It would drive us crazy. We would never
14 get the job done.

15 But I will share with you there is
16 one state that has not recommended 92 different
17 risk ratios, but has a different rolling risk
18 ratio based on statistical analysis different for
19 each category of disability and each kind of
20 thing. So you have to look at this chart, and
21 they have risk ratios ranging from 2.0 to four
22 point something and like 2.1, 2.3, two point --
23 and I'm like whoa. Your districts are going to
24 really be confused because it's hard enough for us
25 to keep it straight, and it's confusing and it's

1 technical anyway.

2 But they based it on where their data
3 was now, and statistically, they are an outlier.
4 No other state is doing that, I can tell you.
5 Most states have gone with risk ratios of 3.0.
6 One or two states are going with risk ratios of
7 3.5. One other state, besides the state that goes
8 down as far as 2.0 to 4.5 or whatever they did --
9 maybe not 4.5, maybe 4.0 -- has a risk ratio for
10 one of the areas of 2.5 and the other areas of
11 3.0. So just to give you a sense of kind where
12 others states are falling.

13 And based on that, I wanted to share
14 with you that this is a decision, again, about
15 what is considered significant disproportionality.
16 It's not just -- disproportionate representation
17 is the risk ratio threshold -- is what we say is
18 disproportionate representation. The significant
19 disproportionality comes in with identifying a
20 district who has been like this for, if you use
21 consecutive years, which you-all recommended and
22 all of our other stakeholder groups have
23 recommended -- that's where the significant
24 disproportionality comes in for us.

25 With that said, I did want to share

1 with you that we have met with a variety of
2 stakeholder groups and got input from a variety of
3 you. We have -- all of our others stakeholder
4 groups have recommended that we go with the risk
5 ratio of 3.0, and their reasoning was that for
6 identification and placement, our districts are
7 used to that and that's what they're shooting for
8 and to change that now on them might be an issue.
9 However -- not however. The other thing that they
10 said in the recommendations was that is because
11 OSEP has already accepted that from us, so we know
12 that that is something they consider reasonable.
13 We don't know if OSEP, for example, would consider
14 4.5 reasonable.

15 Now I will share with you we had
16 individuals within stakeholder groups tell us they
17 wanted 2.5 and we had individuals in stakeholder
18 groups tell us they wanted us to go up as far as
19 4.0 or 4.5 or 3.5, but as they started getting
20 higher numbers, they had more trouble justifying
21 to us why that should be in terms of being good
22 for the kids. The only thing they could tell us
23 basically was, "Well, it would make your job
24 easier because you wouldn't have as many districts
25 to follow up with." And that's all well and good,

1 but we know we've got districts to work with on
2 this.

3 Now OSEP does -- I think I mentioned
4 the last time that two of the main things we can
5 look at is what's appropriate for kids, and
6 another thing to think about is something they had
7 told us before when we were going to go with a
8 lower risk ratio, lower than 3.0 before, when they
9 approved our 3.0, was how many districts we would
10 have to work with, that we wouldn't have the
11 capacity to do the follow-up that we needed on a
12 regular basis. So we can consider that as well.

13 But with that said, I do want to get
14 some -- hear from you-all about how and why you
15 decided 2.5 across the board. I will tell you one
16 of the other stakeholder groups, but not all of
17 them, recommended 2.5 for discipline but 3.0 for
18 identification and placement. So I got to hear
19 every other stakeholder group's discussion and the
20 reasoning behind it. So to make sure that I'm as
21 informed as possible as we put all this together
22 and try to make a final decision and
23 recommendation that we take back out for public
24 comment, I need some more -- not just the numbers
25 here on paper, and then I'm going to need some

1 input about placement and some support for your
2 recommendations. Yes, sir?

3 DR. CARPENTER: So that I understand
4 again what the risk ratio means, can you describe
5 that one more time? So if a group said that for
6 identification or -- let's say the last column,
7 discipline, out-of-school suspension said 3.5,
8 that means that an LEA would have to have those
9 instances that are more than three and a half
10 times what?

11 DR. JOHNSON: In essence, what a risk
12 ratio does is looks at the population you're
13 considering so, in this instance for discipline,
14 students with disabilities, but then it looks at
15 it by race. So for discipline, I'm going to take
16 the African-American race because that's where our
17 issue is with discipline. In identification, it
18 is -- some of the other races are included in that
19 category.

20 But in this instance, if it were the
21 size 3.5, it would mean that African-American
22 students -- if they were on the list for
23 disproportionate representation -- that African-
24 American students were 3.5 times as likely to have
25 out-of-school suspensions than kids -- than

1 students with disabilities of any other race.

2 DR. CARPENTER: And by setting a
3 threshold of that, that means that you're going --
4 or DPI will have to monitor those school systems
5 that are 3.5 or greater?

6 DR. JOHNSON: Yes. And we have to do
7 that already.

8 DR. CARPENTER: So if we're more
9 concerned about it, we would have a lower risk
10 ratio?

11 DR. JOHNSON: Yes. But we would
12 have -- we would have a lower risk ratio.

13 DR. CARPENTER: Because that would
14 mean more systems would be in that category of out
15 of compliance and they'd have to look at them?

16 DR. JOHNSON: Yes. Yes.

17 DR. CARPENTER: Okay. I just wanted
18 to make sure that I knew what we were talking
19 about.

20 DR. JOHNSON: But if we get too many
21 systems that we identify and say are out of
22 compliance, then we're going to have so much work
23 to do to monitor that, and I will share with you
24 that for smaller districts--- And the majority of
25 our districts are medium size to smaller. The

1 majority are not large. ---because I've looked at
2 this data over the years, that one or two students
3 can move them -- when we've been using a 3.0 risk
4 ratio, one or two students different bumps them
5 over 3.0 or takes them off -- puts them back under
6 3.0.

7 So the smaller you get -- 1.0 is
8 considered a straight -- straight ratio and
9 anything under that would be considered
10 underrepresentation. Anything over that is
11 overrepresentation, in essence, or could be
12 considered disproportionate, but it doesn't
13 necessarily mean it's significant. So if we go
14 down -- let's say if we went down as low as 2.0,
15 we could have -- a district could have one kid
16 move in and it could knock them over that line and
17 they would probably never get off of it.

18 The other thing related to that is
19 it's not just us monitoring them. Those districts
20 then have to spend -- take 15 percent of their
21 federal funds that they may be using to pay for
22 teachers in the classroom and target it
23 specifically to this issue. Now the good thing
24 is, is that if they are mandatory, in the
25 future -- right now they can't use it on students

1 with disabilities. So 15 percent of their funds
2 is taken and they have to focus on kids without
3 disabilities.

4 But in the future, after July 1, if
5 we go with the new regulation -- and I say that if
6 we go with the new regulations. You know what?
7 That's another thing we don't know, is if they
8 come back out and say how the regulations are
9 going to go but states could go ahead and
10 implement anyway, I don't know if they're going
11 let us implement that part because it's clearly in
12 the regulations now that those funds cannot be
13 used for students with disabilities.

14 So I don't know, if they do not make
15 them mandatory as of July 1 of 2018, if they'll
16 only make some of them not mandatory, or if they
17 allow you to go ahead and implement the
18 regulations that way, if they will allow you to do
19 that part. Because right now -- and the reason
20 I'm saying that is right now, for example, in
21 discipline, we use a greater than twice the state
22 average risk ratio or rate because that's one way
23 OSEP has allowed us to do it, but right now we are
24 allowed to use a risk ratio if we want. So we
25 could change that part anyway without these new

1 regulations.

2 DR. CARPENTER: And did you also say
3 that right now the systems are used to and the
4 flag goes up for them at 3.0?

5 DR. JOHNSON: At 3.0 for
6 identification and placement right now, and those
7 are the numbers I think I shared with you on the
8 phone the last time, that chart that showed how
9 many districts are flagged right now that have a
10 3.0 or greater in the different areas, and that
11 doesn't mean they have significant
12 disproportionality. They might end up on the
13 warning list on that in the future. If you have
14 this three consecutive years, you'll end up with
15 it. But, yes, for the identification and
16 placement -- the flag for discipline right now is
17 if your discipline rate is greater than twice the
18 state average. So that's the flag for discipline.

19 What I will share with you is that
20 based on all the calculations and analysis we've
21 done that even if the regulations are required
22 July 1 and we would choose not to implement the
23 new regulations, we would probably be recommending
24 that we change how we do discipline and change it
25 to a 3.0 risk ratio calculation like we do in

1 identification and placement because, first of
2 all, it's easier to communicate the same thing to
3 all the districts, and when we look at it, it's
4 similar. We are going to have more districts that
5 would be identified with a risk ratio calculation
6 than we do twice the state average because they're
7 looking at the district's entire population when
8 you calculate that risk ratio. But that is
9 something that we could change with the old
10 regulations, is our risk ratio calculation anyway.
11 Yes, ma'am?

12 MS. MOOREFIELD: I think you may have
13 answered my question. I just want to make sure
14 because -- well, two questions actually. So
15 you're saying that in order for a district to show
16 up on like a warning list or watch list or
17 whatever, they have to have two times the state
18 average, and so does that mean they would have to
19 have six times the ratio -- I mean the amount of
20 students?

21 DR. JOHNSON: No. No.

22 MS. MOOREFIELD: Boy, I'm not a math
23 person.

24 DR. JOHNSON: Two times the state
25 average would be in discipline, and that's where

1 the risk ratio calculation might be easier to say.
2 You're three times more likely to be identified or
3 to have disciplinary whatever. Two times the
4 state average rate for students with disabilities
5 in discipline, first of all, we have to get all
6 our discipline data in and then we calculate
7 whatever the state average rate is.

8 So last year the state average rate
9 for out-of-school short-term suspensions where we
10 had people on the list was right at, I'm going to
11 say, 2.0. It was 1.9 something. So twice that
12 rate is 4.0, as an example, or 3.98 was twice the
13 state average. So anybody who had a rate that was
14 greater than 3.98 for discipline in a race
15 category was identified. They were flagged, okay?
16 So it depended on their -- their numbers -- it was
17 dependent on their numbers within their total
18 child count.

19 MS. MOOREFIELD: Right. And then my
20 second question, which I think you answered, would
21 there be a way -- what you were saying is if we
22 moved it down to 2.5, then the number of schools
23 that would have to be monitored would be greater
24 than the State's ability to monitor them. Can
25 that be done like on a tiered system?

1 I know you mentioned like if you
2 are -- if you are greater than that ratio for
3 three consecutive years, then there's like a whole
4 other first step. But is there a way that we
5 could say, "Okay. Well, you have -- this year you
6 have reported at greater than 2.5," and then have
7 like maybe a self-assessment that the school would
8 have to do as to, okay, here's what -- here's what
9 caused us to go over, here's what we're going to
10 do about it, and then kind of set up their plan?

11 I mean much like a teacher who is on
12 like a probation kind of thing where you have to
13 set up an improvement plan that would -- so that
14 an actual monitor would not be needed for them so
15 they could kind of fix their--- Am I saying---

16 DR. JOHNSON: Well, we do -- through
17 our LEA self-assessment, they have to look at --
18 every district has to look at all their data
19 including their disproportionality data and
20 consider whether that's an issue or concerning
21 enough for them, but with the significant
22 disproportionality regulations, that is very
23 specific whether we're looking at the old
24 regulations or the new regulations.

25 Once we identify a district as having

1 significant disproportionality, they have to spend
2 15 percent of their funds. That plan has to be
3 submitted as part of their annual submission. All
4 those kids have to be tracked. We have to monitor
5 their policies, procedures, and all of that. And
6 that level of -- once we've made that decision,
7 that level can't be tiered.

8 MS. MOOREFIELD: So we can't -- we
9 can't set up something just below that so that if
10 it's -- because, like we said, it could be one
11 kid, that it's just an outlier, and it pushes them
12 over. So there's no way that we can set up
13 something where the school would not have to use
14 all of those funds for one simple fix? Like one,
15 you know, very clear something that they could put
16 in a plan before it kicks them over into that?

17 DR. JOHNSON: I think maybe somewhat
18 what you're talking about is we do put people or
19 districts on a warning list because we use three
20 consecutive years. So the first year they go on
21 the warning list, some districts have chosen to
22 use permissive -- have chosen to use some of their
23 funds in a permissive way to start addressing the
24 problem. So that's somewhat what you're talking
25 about, but it's not -- it's not identifying for

1 them if -- if our flag is 3.0 and you're at 2.7,
2 it's not identifying -- we're not sending out
3 information to all those districts about where
4 they are now.

5 With our new ECATS system -- again,
6 we keep bringing that up -- it's going to be
7 easier for districts to tell where they are,
8 especially if they're not one on the list, so that
9 may help. But we would then, in essence, be
10 sending letters probably to -- it would probably
11 be more than what we could do. We hoped that the
12 warning system -- the three years -- one of the
13 problems is our discipline data is on a year's lag
14 time, and by the time we get it, analyze it, and
15 get it back out, the whole school year is almost
16 over, so they've lost a year.

17 Even though you're on the warning
18 list for this year, you've already lost -- like
19 this whole school year is half over, and if you're
20 not tracking your discipline data -- but, again,
21 in ECATS, it's going to be easier for districts to
22 do that.

23 MS. MOOREFIELD: So that will kind of
24 help shorten that lag time a little bit?

25 DR. JOHNSON: So, hopefully, that

1 will help.

2 MS. HUTCHINSON: Two concerns I
3 wanted to mention. When talking about discipline,
4 coming from like a district's perspective, we do
5 get the warning list springtime, and we've lost an
6 entire year of students being suspended, but also
7 training administrators on preventative measures
8 takes another year before that actually gets
9 enacted. So having the appropriate amount of time
10 to do training is not a one-year fix. Most times,
11 it's a two-year fix, one year training
12 administrators and then the next year you see the
13 consequences of your data coming up.

14 The second thing is, I'm concerned if
15 our perspective in our stakeholder group is
16 ensuring that the needs of special needs students
17 are met, I worry from a district's perspective,
18 when you lose that 15 percent, that means that per
19 child allotment, if you will, is lower and lower
20 and lower, and one the ways you could have been
21 placed on that roster is very incidental,
22 especially if you're a pretty small district.

23 So I think I represent a pretty small
24 district, and like Nancy said, you could have a
25 minuscule X, whatever area, disability category,

1 and you would literally have one student move in
2 who is a very small minority Asian student who's
3 ID mild, and that places you on the
4 disproportionality list.

5 That would sustain over those three
6 years, even if it was a warning list, a watch
7 list -- you would sustain that if you remain
8 keeping that student, which I would hope you
9 would. So nothing you did would change it because
10 that child was already placed in the previous
11 district. So I didn't even place that child. It
12 came to me with the package of being placed in
13 that area.

14 So I have no control over it,
15 although it came to me, and now I'm losing 15
16 percent of my funds to serve potentially more
17 students because we have a larger number of
18 students sometimes in small districts that
19 potentially parents of students -- and autism is
20 an area that I see with charter schools is a
21 really high number. Parents of students with
22 autism seek some smaller environments, and it
23 makes a lot of sense why. So our numbers
24 sometimes look a little higher, but those kids
25 come to us placed.

1 So the 2.5, now I reduce my funds to
2 be able to serve that higher number of students.
3 It's like I'm getting pinched from both sides. So
4 I have a really different perspective on
5 discipline than I do on identification, and it's
6 not that we want students overidentified, but we
7 want to be able to serve those students who are
8 identified who need the proper services.

9 At the same time, discipline is a
10 longer fix because it's a year cycle of training,
11 and I know CMS -- Stacey was here and we've had
12 this conversation before -- it would take us a
13 year to train our administrators on preventative
14 measures and positive behavior interventions and
15 getting the IEPs in place that are appropriate,
16 you know, with annual reviews and such. So, you
17 know, to transform some of your schools into PBIS
18 schools too would take a good year with, you know,
19 investment and [inaudible].

20 So I just -- I feel differently about
21 discipline than I do about identification, and at
22 the end of the day, we have to consider the fact
23 that we're taking money from special needs
24 students who are already placed and were already
25 identified by lowering that number down. So I

1 know I might be an outlier, and I apologize.

2 DR. JOHNSON: Related to that, there
3 are a couple of things I need to share. Ann, I
4 think, had asked about if this money -- we got to
5 spend this money in the future on students with
6 special education needs, students with IEPs. And
7 the answer is yes, that you can include them in
8 whatever your plan is for CEIS, but it can't just
9 be special ed students. So you can't -- that 15
10 percent can't be just targeted to special ed.
11 It's got to be targeted to any child who might be
12 in that situation in the schools that you're
13 targeting or whatever.

14 MS. STALNAKER: And I was asking what
15 you clarified with the new regulation, is that
16 part of what's changing. I knew it was, but since
17 they were giving us some now they're not sure, is
18 that an area where we aren't sure because we
19 certainly have used those monies outside of the EC
20 Department, and it is difficult. I mean we've
21 done a lot of great things with that money at the
22 district level to help at risk students in
23 addressing discipline.

24 But, you know, we're disproportionate
25 in identification in SED which, you know, there

1 are -- I think every district may have its own
2 reality about why they may be disproportionate.
3 In a large district like CMS, we may have many
4 residential treatments facilities, so we do have
5 people, families move to the area or kids being
6 transition to that area. So I mean I think we all
7 have a context. It is important that we look at
8 this issue, but the remediation can be
9 challenging.

10 MS. VLASATY: So I just want to be
11 perfectly clear. So even if you're on the warning
12 list, you're still hit with that 15 percent?

13 DR. JOHNSON: No. You have to be on
14 the significant disproportionality list right now,
15 and right now we use three consecutive years. The
16 warning list is to let people know you have
17 disproportionate representation and you need to
18 start working on this so that you can come off the
19 list. One of the problems with the warning list,
20 though, even though we do that because of how the
21 data comes in, particularly with discipline, it's
22 a year data lag, and by the time we get it out---

23 Like the 2016-17 discipline, it's a
24 whole school year's worth of data. It comes to us
25 in the fall, we submit it to OSEP in November,

1 they certify our report in -- sometime between
2 November and January. Then we do all the data
3 analysis once we know the data is clean and get
4 the report out in the spring. You have
5 significant disproportionality from two years ago.
6 It is almost like two years.

7 And by that time, if you find out in
8 the spring that you have disproportionate
9 representation, even if you're on the warning list
10 in discipline, and it's from discipline data
11 that's from two years ago and you've already done
12 last year's data, and then you've got -- this
13 school year is almost over. So by the time they
14 really find out about discipline -- and I take
15 that back -- they have basically one year to do
16 all their training and start changing their
17 procedures.

18 MS. VLASATY: I want to throw out,
19 maybe districts should stop being reactive and
20 start being proactive. So -- so we know this is
21 an issue. Why wait until you're -- why not train
22 these administrators---

23 MS. HUTCHINSON: You don't find out
24 it's an issue until like the---

25 MS. VLASATY: But that's what I mean.

1 So you know any district might -- this might
2 happen to any district, so why not start having
3 these conversations with your administrators now.
4 Why would you wait to potentially be identified
5 and then you decide to do training? Why wouldn't
6 you train administrators now to be proactive?

7 MS. STALNAKER: I think that's a
8 really good question, and what I would say is that
9 districts are proactive around the big issue. So
10 have we done a lot of training around discipline
11 and how we interact with students and putting PBIS
12 in place and all of that? Yes, I would totally
13 agree. You don't wait till you're
14 disproportionate. We should be doing that
15 already, culturally responsive teaching, cultural
16 proficiency, all of that.

17 In other cases, though, it might be a
18 very small category of identification such as your
19 example of IDmild. How do you be proactive that
20 you might overidentify in ID mild? Well, if we're
21 using the eligibility checklist thing and we are
22 working with our school folks around the right way
23 to think about differentiation, tiered
24 intervention, in that way, we're proactive, but we
25 wouldn't know that very narrow thing.

1 DR. JOHNSON: I think even in
2 discipline that we have a lot of schools doing a
3 lot. We just celebrated in November at our
4 November conference all the schools that are doing
5 well with PBIS, but that doesn't mean that they're
6 not going to have disproportionality. We had
7 people sitting in a disproportionality meeting
8 that we were presenting on, and they had just been
9 recognized for their good schools that were doing
10 PBIS, but their numbers still are showing that
11 they have some issues with how kids are suspended
12 by race.

13 MS. VLASATY: So that's when they get
14 hit with the 15 percent?

15 DR. JOHNSON: Yes, that's when they
16 get hit with the 15 percent. With that said,
17 because I know we don't have a lot of time -- I
18 could talk probably right through lunch and you
19 wouldn't get to eat and I'm holding your lunch up.

20 The other area is placement. If I
21 were just going to look at this paper, I would
22 assume -- well, we didn't talk about placement
23 because of all the 2.5's -- most of you would
24 recommend we would do a risk ratio of 2.5 for
25 placement also, but I'm not sure you would

1 understand, because I didn't really share that
2 data with you, why you would recommend that or
3 not. But I also wanted to kind of, again, share
4 with you what others were doing and get some
5 feedback from you about why you went with
6 recommending 2.5 across the board, if you will, so
7 that we can take that into consideration as we're
8 looking at our numbers.

9 Most of the other stakeholder groups
10 have gone with 3.0. One or two other stakeholder
11 groups recommended 3.0 for identification and
12 placement and 2.5 for discipline. And, again, I
13 think somebody had asked could we use a different
14 one for in-school suspensions and out-of-school
15 suspensions, and yes, you could, and I'm not sure
16 everybody was clear that you could do those when
17 you deliberated.

18 So I want to share with you -- if
19 there's anything you can share with me today to
20 help me understand why you went with 2.5 across
21 the board so I can support those recommendations
22 when we're looking at all the stakeholder
23 information we have and also what you would
24 recommend for placement, and if I can answer any
25 other questions.

1 While this may stand exactly as it
2 is, that's okay. I don't want to imply that it's
3 not okay. I just need some support for this. But
4 we can also take more time. We don't have to make
5 the decision today because, again, we're now not
6 under the timeline of submitting all this May in
7 our application. We're more under a timeline, if
8 we're going to go with it, we have to get it in
9 place and share with the districts starting July 1
10 this is what it will be. And our decisions --
11 even though it would be July 1, our decisions
12 wouldn't be made till the next spring using these
13 new regulations. So we've got a little bit more
14 time and a little bit more leeway to work with.

15 So with that said and knowing it's
16 lunch, I don't know how you want to proceed here.

17 THE CHAIRPERSON: It might be an
18 idea -- because we are actually past lunch and
19 into committee work now, so it might be a good
20 idea to go ahead and pause here. Maybe some of
21 our committees can kind of ad hoc a little bit at
22 some point to put together the clarifying reasons
23 of why we went with 2.5. I know a lot of us are
24 very passionate with different points of view and
25 things like that, and I think we can probably do

1 that.

2 Jennine, would you be interested in
3 heading up that ad hoc committee to put together
4 the why of the 2.5?

5 MS. VLASATY: Will we be doing this
6 now or---

7 THE CHAIRPERSON: Probably some time
8 today or the next couple of days or, you know,
9 before the next meeting.

10 MS. VLASATY: What are you looking
11 for?

12 DR. JOHNSON: I can -- I will be here
13 all afternoon, so if you've got a small group
14 that's working on it, at least if you have
15 questions you need to ask me or if you want to
16 just start articulating some of the things you-all
17 discussed when you-all talked about it, since I
18 wasn't in on those discussions just so I can have
19 an idea. And then if you want more time to
20 re-look at your recommendations or put things in
21 writing, then we can take more time outside of
22 today to do it.

23 MS. VLASATY: In each committee, do
24 we want to take the first five minutes---

25 THE CHAIRPERSON: We can do that.

1 MS. VLASATY: ---to, you know, jot --
2 so we can give Nancy, you know, feedback today?
3 And then if -- from that, if we decide we have to
4 do another telecon, we could definitely schedule
5 that.

6 THE CHAIRPERSON: Yeah,
7 teleconference is fun.

8 MS. VLASATY: But this way, you know,
9 Nancy could walk away today with something.

10 DR. JOHNSON: That would be helpful,
11 and again, I realize now, having the webinar with
12 you-all seemed like a good idea because I was out
13 in Nashville at the regional meeting, but because
14 it was the one follow-up meeting where I wasn't
15 there in person so I didn't get to hear the
16 discussion about the decisions that were being
17 made, I was just looking at numbers.

18 MS. VLASATY: The telecon was
19 recorded, though, right? Wasn't the October call
20 recorded? So Nancy should be able to have access
21 to that, right?

22 MS. OUZTS: I'm not sure if it was
23 recorded.

24 THE CHAIRPERSON: I don't think it
25 was.

1 MS. OUZTS: It was a brief call,
2 though. Most of the discussion happened here
3 during the meeting, so it is in the transcript and
4 that is posted.

5 DR. JOHNSON: So what I'm reading
6 here?

7 MS. OUZTS: No, that's the minutes.
8 We have a full transcript.

9 DR. JOHNSON: Oh, you have a full
10 transcript that I can---

11 THE CHAIRPERSON: Yeah.

12 DR. JOHNSON: Okay. That would be
13 helpful. Okay. Thank you for letting me take so
14 much time. I will be around this afternoon. If
15 you have any questions, I'll be here.

16 THE CHAIRPERSON: Thank you, Nancy.
17 All right. I guess we ought to have a working
18 lunch. So when we break into committees, I did
19 want, hopefully, that we can put together the
20 Policy and Procedures Committee to discuss the
21 Andrew case and any possible -- I sent out earlier
22 in the week a Q&A from the Department of
23 Education. So if anybody would like to work
24 together on that in a Procedures and Policies
25 subcommittee, that would be great. Unmet Needs

1 need to work on the public comment, a few
2 modifications there.

3 Was there anything in Reports and
4 Data that we needed to work on?

5 MS. DANIELS-HALL: No. You just kind
6 of put me in charge of that particular piece that
7 we would be working on.

8 THE CHAIRPERSON: Okay. Oh, okay.
9 Well, I didn't realize I did that. I guess that
10 would be in your--- Okay. So maybe you two can
11 work together on that. I just know how passionate
12 you are about this issue. And I'm the Executive
13 Committee and I don't think we have anything. So
14 those two committees definitively are going to be
15 working with Reports and Data. All right. Sounds
16 good. Let's go get some lunch and then we'll go
17 into committees.

18 **(A luncheon recess was taken from**
19 **12:35 p.m. to 1:18 p.m.)**

20 THE CHAIRPERSON: All right. We do
21 have one in-person public comment and I think four
22 written comments to go over this afternoon.
23 Please remember no personal identifying
24 information when you're sharing your public
25 comment, and the time limit is five minutes, but

1 we're kind of generous.

2 So our first -- we'll go first to our
3 in-person. Her name is [Public Speaker #1].
4 She's from Lee County, North Carolina. She has a
5 [child] with [redacted]. I probably shouldn't
6 have said that. Sorry. Come up to the
7 microphone. The microphone is your friend. Take
8 a deep breath. You're going to do fine.

9 PUBLIC SPEAKER #1: Thank you. My
10 name is [redacted], as she said. I am 44 years
11 old. My [child] and I share a diagnosis of
12 [redacted]. She's 11, we live in Lee County, and
13 she's in the sixth grade. One of the reasons why
14 I came here today was to go over some of the
15 things -- challenges that I'm having in the school
16 system in Lee County with regard to her IEP.

17 The transition from elementary school
18 to middle school is very difficult for any kid,
19 but for someone who is [redacted], it is
20 especially overwhelming because you're dealing now
21 not just with one teacher, you're dealing with six
22 or seven. We had to make some changes to her IEP.
23 There have been a number of meetings. We've had
24 four so far this year, and we still haven't got
25 anything set.

1 We've already changed [the child's]
2 entire schedule, which is again overwhelming for
3 [the child]. We've had trouble with [the child's]
4 teachers not following the letter of the IEP even
5 after I -- the last meeting that we had, I made
6 them let me type it out in a bolded list in plain
7 English that anybody could understand, not the
8 legal verbiage that is in the IEP that they all
9 have to have. I know they have to have it. But I
10 wrote it down. They all got a copy of it, they
11 all acknowledged a copy of it, and they still
12 weren't following it.

13 [The child] struggles with executive
14 function skills mainly: organization, routine,
15 memory, remembering to turn [the child's] work in.
16 These are things that you find a lot of [redacted]
17 kids struggle with in school. There's a much
18 faster pace that [the child] cannot keep up with.
19 They don't give [the child] the time that [the
20 child] needs to transition properly.

21 They are still using words like---
22 Where is it? Hold on. Sorry. I lost my place.
23 They're still using terms to describe [the child],
24 [the child] refuses to make eye contact, [the
25 child] refuses to hand in [the child's] work, [the

1 child] zones out, [the child] won't listen, [the
2 child] daydreams, [the child] is lazy, [the child]
3 won't apply [oneself], [the child] is not
4 remembering -- thank you -- [the child] is not
5 bringing us---

6 MS. SIMMONS: Your [child]
7 expression.

8 PUBLIC SPEAKER #1: Instead what they
9 should be thinking and using are unable to make
10 eye contact, [the child] cannot remember -- and
11 they can learn this. It just takes them longer,
12 but a lot of times, these teachers don't seem to
13 take that to heart, they don't think about it
14 because when you look at [the child], you don't
15 see [redacted]. [Redacted] doesn't have a look.
16 I don't look [redacted]. I can speak, but I'm
17 having trouble right now, and eventually, if I
18 keep going, I will lose speech and [the child]
19 will lose speech. So then they punish [the child]
20 for not being able to speak when something
21 happens.

22 I have asked several times, the
23 principal and the EC coordinator at [the child's]
24 school, what the procedure is when teachers
25 violate the IEP agreements. They could not give

1 me an answer for three or four days. They had to
2 go look it up. When the principal finally got
3 back to me, she told me -- she laid it out. She
4 said she gives them a written warning, and then
5 after that they open an investigation. And I
6 can't remember exactly what she said after that.

7 But then another violation by the
8 same teachers happened, so I emailed her again and
9 I said, "This is not okay, and I will keep pushing
10 back on this because once we have an IEP in place,
11 they are supposed to follow it. They acknowledge
12 it, but they won't do it. They ignore it or they
13 forget or whatever, and then they try to tell me,
14 'We have 26 other kids to think about. We can't
15 babysit yours. We can't hand-hold yours.'"

16 That is some of the most offensive
17 language you could use when you're dealing with a
18 disabled child, whether it's ADHD, [redacted], or
19 whatever. It's not babysitting and it's not
20 hand-holding and it's not coddling to accommodate
21 a need. That is why we have these protections in
22 place.

23 And I want clear understandings of
24 what the discipline procedures are. I want better
25 resources made available to parents of the newly

1 diagnosed child. I want them to take seriously
2 the parents like me who are on the [redacted] who
3 tell them, "I need help. As a parent, I need your
4 assistance because I don't understand the
5 language," and they dismiss my concerns as
6 hyperreactivity, as just being overly emotional.

7 That's really all I have to say. I
8 just tried to keep it short and sweet. If I read
9 all this, it would take more than five minutes,
10 so---

11 MS. HUTCHINSON: Can you say those
12 three things---

13 THE CHAIRPERSON: You still have one
14 more minute.

15 PUBLIC SPEAKER #1: Say again?

16 MS. HUTCHINSON: I was just trying to
17 jot down the things you said "I want," and you
18 said clear expectations of discipline of staff and
19 then clear -- I didn't catch the other two. You
20 were going real quick.

21 PUBLIC SPEAKER #1: Clearer resources
22 available for parents. They can't just hand you a
23 folded up and stapled book and say, "Here. Have
24 fun," you know, especially when you're dealing
25 with somebody who doesn't understand that language

1 anyway. You know, I had never heard of the
2 [redacted] before this year, and my [child] was
3 diagnosed in 2011. I had never heard of them. I
4 wasn't told that there were advocates available
5 that didn't charge an arm and a leg because we
6 don't have a lot of money to pay for things like
7 that. I didn't know those services were
8 available.

9 MS. HUTCHINSON: You said a third one
10 too, I think.

11 PUBLIC SPEAKER #1: Enforcement of
12 the discipline procedures for violations of the
13 IEP because they're not enforced.

14 MS. HUTCHINSON: I thought maybe I
15 missed one.

16 PUBLIC SPEAKER #1: I probably
17 forgot, in one ear and out the other. But that's
18 all I have to say. Thank you.

19 THE CHAIRPERSON: Thank you,
20 [redacted]. Well done. And we also have the
21 written comments that Diane will go over.

22 MS. COFFEY: There's four different
23 ones, so I will start---

24 MS. OUZTS: Diane can you make sure
25 the mike is near you so we can get it. Thank you.

1 MS. COFFEY: There is four different
2 letters. So I'll start with the first one that we
3 received, and I'm going to paraphrase and not read
4 every word but try to get the gist of the story.
5 This particular one is from CMS in the Charlotte
6 area, but basically, this student has been
7 switched to the North Carolina Virtual Public
8 School due to overwhelming reasons that [the
9 child] could not be in a regular classroom and/or
10 even in an OCS classroom from the way it's wrote.
11 Is taking honors level courses in many subject
12 areas and is working to apply to college for fall
13 of 2018.

14 During the course of the last two
15 years, as it came to light that there was some
16 significant learning disabilities in math, [the
17 child] was not able to pass Math I, and so [the
18 child] did qualify for the substitute sequence to
19 do the CTE courses for Maths I through IV instead
20 of having to do the regular maths.

21 The problem that is coming up in that
22 is that there are only certain -- within the
23 Virtual Public School, there are only a few
24 options for them to do. Counting I is actually
25 one, but they are saying that [the child] is not

1 able to do that one. So it's coming down to, at
2 this point, there is -- [the child] cannot get the
3 math credits [the child] needs to get because
4 there's not enough options to give that [the
5 child] could actually possibly take. The question
6 that is being asked is could there be -- like
7 Culinary I or Interior Design I is included as
8 part of the maths, but she's wondering like could
9 Math Biotech and some different other ones in that
10 line be substituted.

11 Then she has actually put some
12 points -- she's got three points here that she
13 thinks systemwide should be looked at is: Create
14 some systems of approval where the child's needs
15 can be met and that enough credits can be got
16 through the options that are there;
17 clarification of course selection for ID waiver.
18 Basically, she's saying choose [inaudible] do the
19 paired courses count as one course or do they
20 count as two individually, so some clarification
21 there.

22 And then provide for future children
23 who may need this waiver by updating the list and
24 substituting regularly to reflect courses that are
25 offered through the North Carolina Virtual Public

1 School and at home schools. The list was created
2 in 2014, and almost four years later, there are no
3 new options. And then she has stated that the
4 school system has been very helpful. There are
5 certain ones she named, but that's being left out.
6 And then she just hopes that we will consider
7 helping so that her [child] can graduate on time.
8 So that's the first letter.

9 The second one is -- this one does
10 not actually say where -- what county. Basically,
11 she's -- this parent is wanting to put in her two
12 cents regarding [redacted] intolerance from
13 teachers. The statement is that a teacher is --
14 her [child] -- I'm saying [child] from this one.
15 She's not saying it there. The child is coming
16 home -- the teacher is yelling which seems to be a
17 daily occurrence according to her. "I don't care
18 if you have [redacted]. Just pay attention."

19 She's saying obviously her child is
20 shocked and angry, and her request is that -- she
21 understands that teachers are not psychologists
22 and not trained as well to deal with all children,
23 but she doesn't expect the teacher to outright
24 disregard her child's needs. This child does not
25 have an IEP, so she is -- hasn't even started the

1 process to get an IEP.

2 She is saying that she'll possibly
3 homeschool, but she is just asking that we look at
4 some other ways to help so that, hopefully, this
5 wouldn't continue to happen or happen to other
6 kids. So that one's just basically her two cents,
7 is the way she's put it.

8 The next one, the parent is from
9 Orange County. She wants to thank us for the
10 opportunity to provide feedback. Says she had
11 moved to North Carolina for better opportunities
12 for the youngest special needs child. Does
13 receive services in a separate setting and enjoys
14 inclusion during like music, arts, and science.
15 Her request is about that there is an EC teacher
16 shortage statewide and perhaps nationwide as
17 you're aware. The single most effective
18 determinant of student success in the classroom is
19 the teacher.

20 Talking about they've had a higher
21 than normal turnover with EC teachers and aides.
22 She's asking that the State Board of Education
23 needs to address the shortage, looking at
24 solutions and partnerships with universities in
25 and out of state and to look at inclusion in

1 co-teaching, providing a great opportunity for
2 special needs students to learn. And she goes on,
3 can the SB address this with reaching out to
4 undergraduate EC programs that our state
5 universities. And, basically, the rest of it is
6 just the type of stuff as far as just looking at
7 getting more EC teachers and growth and training.

8 And then our fourth one is from
9 Chapel Hill School District, and the student is
10 currently attending resources and general setting.
11 Issues and concerns with this system are that we
12 basically have two settings for exceptional
13 children: resource and adapted. Some children
14 like my child and other kids with learning,
15 intellectual, and developmental disabilities have
16 behaviors that won't let them function properly in
17 either of these settings, at least how they are
18 currently set up.

19 I'm challenging the system with a
20 series of complaints, mistakes that have been made
21 in my child's placement, and we are both in
22 agreement that none of the settings are correct
23 for [the child], but we must choose one or the
24 other. The resource will challenge [the child's]
25 academics with possible behavior flare-ups that

1 the teacher is not qualified to deal with. And
2 the other will place [the child] in no academic
3 challenge but an adapted setting, removing all
4 possibility of career advancement by high school
5 diploma, and putting all other medical needs of
6 [the child's] peers above [the child's] academic
7 needs.

8 Which one is a fair setting that will
9 also be the least restrictive? You could answer
10 that by board standards, by taking into account
11 what is best for the child, what is fair. My
12 suggestion for this is that our teachers and TAs
13 need to be trained at least basic behavior
14 techniques. She's saying there are 40-hour
15 programs that give significant tools to deal with
16 all kinds of behaviors in both typical and
17 nontypical children.

18 Then she goes on, also the
19 development of [redacted] or behaviorally
20 specialized programs. We just need a couple
21 classrooms in each district with settings that are
22 conducive to remove behavior and emotional
23 challenges of children, with the ability to learn
24 when these challenges are reduced. She said
25 there's a similar program in New York City called

1 ASD Horizon and ASD Nest. Both programs were
2 developed with the New England Center for
3 Children. They seem to work with public school
4 systems developing these types of settings. She
5 said she was able to go and observe them.

6 Goes on, we have every day more and
7 more children on the [redacted] that have learning
8 abilities, but behavior walls need to be removed
9 for them to learn. Local districts blame others
10 for lack of implementation. We seem to have a
11 great deal of effort to develop IEPs that are not
12 implemented from the teachers' lack of resources
13 to teach the child and not necessarily question
14 their ability to teach and the child's ability to
15 learn. She said she's sorry if she hasn't
16 expressed this eloquently enough, and that's the
17 end of the fourth one.

18 THE CHAIRPERSON: Thank you very
19 much, Diane.

20 Okay. Let's move to committee
21 reports from our committee work a little while
22 ago. Who would like to go first?

23 MS. DANIELS-HALL: Reports and Data,
24 we'll go first.

25 THE CHAIRPERSON: Okay.

1 MS. DANIELS-HALL: So we discussed
2 the ratios, and we felt that our concern is we're
3 moving -- one of the concerns is moving away from
4 the needs of the children and moving to the needs
5 of DPI to report the districts if indeed districts
6 are found to be disproportionate -- significantly
7 disproportionate.

8 We're concentrating more on the needs
9 of the adults. So we're talking about the use of
10 funds. We're talking about what DPI has already
11 been able to submit to OSEP and get approval for.
12 We're talking about lots of things that are not
13 about the children, the capacity of the Division
14 to manage the number of districts that might
15 possibly be identified, what OSEP has already
16 previously accepted, what districts are used to
17 and familiar with now, and the funds and how the
18 usage of the funds will be different if you're
19 found to be significantly disproportionate. And
20 for me it moves away from the children and into
21 the needs of the adults.

22 We talked about identification and
23 placement being the same ratio, so I think 2.5 is
24 what we discussed as being really significant for
25 us. In terms of in-school suspension, we

1 discussed and agreed to raise that to 3.0 because
2 that keeps the children in school and supports and
3 encourages districts in identifying their areas of
4 defined needs, putting in-school programs in place
5 to keep kids in school, the kids being exposed to
6 the curriculum. They're safe. They're not
7 getting in trouble and out of school. They get
8 used to patterns of coming to school and being
9 exposed to positive adults in their lives. So
10 that's what we had.

11 And did you guys want to present
12 yours since you passed it on to me?

13 MS. COFFEY: [Inaudible].

14 MS. VLASATY: Do you want me to read
15 it?

16 MS. COFFEY: I can read it. I'll
17 just read it. Kids shouldn't be suspended unless
18 there is a danger. This is just random notes
19 everybody was saying. Sorry. I should have told
20 you that part. Catch more to fix the problems,
21 but it is a concern if there isn't the capacity at
22 the LEA and DPI to be able to fix the problems if
23 they are catching more. Make sure kids are not
24 being penalized for disability.

25 Teachers and administrators have

1 tools to identify behavior versus disability --
2 sorry -- versus disability correctly. Kids are
3 identified who need to be, but not overidentified
4 for school gain. Students are served based on
5 individual need. I think they were heading
6 towards basically that they be identified for the
7 correct thing, not necessarily looking at what
8 gets them not caught or caught, but that they're
9 looking truthfully at the child.

10 Not a reason to justify saying it is
11 acceptable that X amount of students in any
12 discipline, identification, or placement because
13 of limited resources, staff, or dollars at LEA or
14 DPI. Currently, at three -- I'm sorry. I may
15 have to get you to read this one. Oh, okay.
16 You're meaning the three [inaudible]. I'll let
17 you---

18 MS. VLASATY: Oh. So currently if
19 the risk ratio is at three and schools are used to
20 that now, why not raise the bar and go to two and
21 half. And then the last one was a question that
22 didn't need to be answered here, but a concern
23 that if two and a half -- going to two and a half
24 would that actually cause underidentification at
25 schools.

1 MS. COFFEY: And then do you want me
2 to go ahead and talk about unmet needs also or do
3 you---

4 THE CHAIRPERSON: I was going to
5 finish up the discussion for the
6 disproportionality. Policies and Procedures?

7 MS. BIGLEY: We really just talked a
8 little bit about that, and we discussed that
9 really the thought behind the 2.5 was that if the
10 disproportionality is twice that of other
11 students, that to lower the threshold basically
12 would be to put more attentionality behind it and
13 to ultimately lower it. That's kind of what the
14 thought was. That's was the majority of what our
15 conversation surrounded around, if that makes
16 sense. It kind of went along with the end of the
17 discussion prior to break.

18 THE CHAIRPERSON: All right. And did
19 Reports and Data have anything else besides
20 disproportionality to report back, Cynthia?

21 MS. DANIELS-HALL: No.

22 THE CHAIRPERSON: Okay. So let's
23 then do Unmet Needs.

24 MS. COFFEY: We met to add some
25 comments to the public comment section trying to

1 clarify some pieces. Do you want me to read each
2 thing we're going to change or---

3 THE CHAIRPERSON: Just abbreviate.

4 MS. COFFEY: Basically, what we're
5 trying to do is expand a little bit on what is
6 already there so that it makes clear what we're
7 looking for in the public comments. So we're
8 going to add a bullet point under general
9 guidelines that just basically gives them a place
10 to call or contact somebody if they really feel
11 like they need to talk to somebody versus writing
12 a letter in or something like that.

13 And then we're going to add making
14 sure that, one, that we'll be summarizing and
15 reading it from the Unmet Needs Committee as far
16 as the letters that are coming in, but then also
17 being very clear that personal identifying
18 information such as personal names of students or
19 school staff will not be included in the summary
20 or in anything that we read so that we are
21 following open guidelines -- meeting laws and that
22 type of stuff. So, basically, all the other
23 comments are adding to clarify that to make sure
24 that we keep our rules and laws correct on our
25 end.

1 THE CHAIRPERSON: And did we have
2 anything else from Policies and Procedures?

3 (No audible response.)

4 THE CHAIRPERSON: No. Okay. All
5 right. Thank you very much. Let's move onto our
6 presentation on dispute resolution. I'm only ten
7 minutes late. I'm doing good.

8 MR. HUSSEY: I want to say that I'm
9 going to go through this and try to make it in an
10 hour. This was an hour-and-a-half presentation,
11 but I do not have all the lawyerly comments that
12 Carolyn made as she went through it. I also want
13 you to realize, as we do this, this was a
14 presentation for EC directors, and so it is
15 focused to EC directors. So as you -- if you
16 think any of the questions are biased, they are
17 because it was trying to get that specific
18 information across to that particular audience.
19 So as we go through it, I will try to interpret
20 that the best I can.

21 I won't spend a lot of time with the
22 data up front. I will show it to you. I will
23 mention what we mentioned there as far as trends
24 and things that we're seeing, but it is what it
25 is. So we'll kind of go through it. In that

1 hour, I expect that I'm going to get questions so
2 I'm waiting for those. Since it's me following
3 me, it really doesn't matter when we get there, so
4 we'll just work that out.

5 We start with facilitated IEP
6 meetings, and again, you're looking at two years.
7 On each of these slides, you're going to be
8 talking about two years' worth of data, the
9 2015-16 and '16-17. So total number of
10 facilitated meetings you see go down, and then you
11 can just kind of follow the numbers and what they
12 add up to. So we had 138, 121. You can see the
13 numbers submitted by parents. You'll see those
14 submitted by LEAs, submitted by both, declined by
15 the other party, and then those withdrawn.

16 We are seeing fewer as you can see
17 there. I don't know whether or not our numbers
18 are ticking back up for this year.

19 MS. HUDGENS: It's about the same.

20 MR. HUSSEY: Okay. So it looks like
21 we're back on about the same trajectory for this
22 year, but again, just basic numbers there, you can
23 see.

24 MS. SIMMONS: Bill, how about sharing
25 the difference between an IEP meeting and a

1 facilitated IEP meeting?

2 MR. HUSSEY: A facilitated IEP is we
3 actually have trained facilitators, and so when
4 there is--- That's a good question. Thank you
5 very much. There's probably other people sitting
6 around the table that don't know the difference,
7 and I appreciate the question. I'll try to be a
8 little more specific as I go through. Again, I
9 did this with a bunch of people who understand
10 what all these things are.

11 Basically, if there's an issue
12 between the school and the parents that is at a
13 place that it can still be worked with but there
14 needs to be someone else in there working the
15 process to make sure that both sides feel that the
16 issues are heard. It's not a mediation. So it's
17 at a lesser degree than that, but still working
18 through the process, trying to facilitate and make
19 sure that the actual IEP itself gets done, and
20 you're able to get through and accomplish what you
21 need to try to do. So you've got an external
22 person helping to move that process through.

23 And we are -- North Carolina is not
24 certainly the only one who does it, but---

25 MS. HUDGENS: We've done it the

1 longest.

2 MR. HUSSEY: We've done it the
3 longest, yeah, of any other state in the country.
4 So, you know, trying to find another way to make
5 sure that when we get to a contested issue, we can
6 get through it as part of that dispute resolution
7 process.

8 THE CHAIRPERSON: I have a question.

9 MR. HUSSEY: Sure.

10 THE CHAIRPERSON: When it says
11 "declined by other party," do we know the numbers
12 of how many are declined by the parent or declined
13 by the LEA?

14 MR. HUSSEY: I do not, and I think we
15 probably have that data, though we didn't try to
16 put it up there. So we can get that for you.

17 THE CHAIRPERSON: Curiosity. If it's
18 the LEAs, why; if it's the parents, why? How
19 could we make it a better process for both because
20 apparently somebody thinks it needs some help.

21 MR. HUSSEY: And, you know, sometimes
22 those are positive pieces. So it's not always a
23 negative part that the decline occurred. When you
24 look at the facilitated meetings, you can --
25 again, what we're looking at is on behalf of

1 children with as far as the various disabilities.
2 So, again, you can see where the leading number of
3 facilitated IEP meetings and the population that
4 it's with, and then you can just kind of go down
5 and see how that works out.

6 Again, if you remember, I want to say
7 it's like 46 percent or thereabouts the
8 disability -- SLD is the largest, in and around
9 that number, and so, you know, obviously, you
10 would think that would be up there at the top, and
11 it is, but autism kind of runs away both years
12 with the top number. And, again, we understand
13 the difficulty of those children and the
14 difficulty of sometimes accepting who they are
15 inside the building, and we're trying to work
16 through those processes.

17 And this really -- kind of what we're
18 going to do is go down inside the data that Nancy
19 gave you as we go through this, and so you can see
20 a lot of specific information as we go through on
21 the rest of this. But she gave you the summary
22 data of kind of the big picture. I'm going to
23 give you a lot more detail than that. Again, all
24 the way down to the very end. Yeah?

25 MS. McNEILL: Do you have staff that

1 specifically facilitate these meetings?

2 MR. HUSSEY: We have individuals. Do
3 you want to talk a little bit about that?

4 MS. HUDGENS: So elaborate on the
5 facilitated IEP meetings, we have contracted with
6 individuals across the state to perform this
7 service so that it is truly impartial. It's not a
8 state employee who conducts the facilitation, but
9 they may have been a retired EC director or
10 someone with experience in the Exceptional
11 Children Division.

12 And their role in a facilitated IEP
13 meeting is to help the parties develop a mutually
14 agreeable agenda and keep the conversation in the
15 context of that meeting on point with the agenda
16 and facilitate that conversation so that the
17 parties are able to come to an agreement or the
18 next steps that they wish to pursue.

19 That person is impartial so they're
20 not going to weigh in on policy, procedure, right
21 or wrong. They might ask guiding questions to
22 help the parties discuss things that might come
23 into play, but we contract with those individuals
24 so that we can try and maintain the highest level
25 of impartiality, and our office does provide

1 annual training in order to provide updates, talk
2 about trends in what we're seeing, answer
3 questions relative to situations they've
4 encountered in the field.

5 MS. McNEILL: Thank you.

6 MR. HUSSEY: She's my source for all
7 this data, so if you ask me too many questions,
8 I'm going to turn her way.

9 Again, of the 138 in '15-16, 96 total
10 meetings were held, and again, most of the time,
11 we try to get these done in one session. So we've
12 been successful with that at 90 and 84 percent in
13 the two years, but sometimes it takes more than
14 one session to get through this facilitated
15 process and making sure that we work as hard as we
16 can towards reconciliation around any of the
17 issues. Again, percentagewise, we're pretty
18 much -- I mean 96 out 138 and 90 out of 141, and
19 again, for '16-17, the majority of them were done
20 in one session.

21 And believe it or not, this is
22 interesting information to directors. So as I go
23 through this, you're going to go [vocal
24 imitation]. I mean I'm just giving you a bunch of
25 numbers, but it really is important. People try

1 to look at this to get a sense of -- you know,
2 because they're going to look at this from a
3 director's perspective and go okay, well, I had --
4 there were five facilitated IEP meetings. You
5 know, they're thinking through what these numbers
6 mean relative to them, and then they get a sense
7 of what's happening across the state. So it was a
8 very well-received program. All I did was go
9 through these first couple of slides. Then
10 Carolyn took over the rest.

11 Again, consensus and partial
12 consensus and no consensus. So of the meetings
13 held, again, the majority of the time -- you know,
14 consensus, again, just as an explanation, is not
15 that everyone's in total agreement, but everyone's
16 willing to live with what that decision was. And
17 so it's not -- you don't vote -- you don't have an
18 absolute answer. You come up with a solution.
19 You have consensus or reach consensus around that
20 solution and you move forward.

21 Actually, I'm not sure -- partial
22 consensus is really around the issues themselves,
23 so they were able to reach consensus around
24 certain issues and not others. I was thinking
25 about that for a second. You know, I don't know

1 how you get partial consensus, but you do around
2 the particular pieces of the concern. And then no
3 consensus, as you can see, was very, very small in
4 numbers and percentages.

5 So we move to mediation. Now this
6 becomes a much more formal process. There is a
7 mediator. And do you want to describe any of that
8 as well just to give everybody ample opportunity
9 to---

10 MS. HUDGENS: Sure. The key
11 difference between the facilitated IEP meeting---
12 That's not working, is it?

13 MR. HUSSEY: Come on up.

14 MS. HUDGENS: The key difference
15 between a facilitated IEP meeting and mediation is
16 that the IEP team is the ones that are involved at
17 the facilitation level. You still have an
18 impartial individual both at facilitation and the
19 mediation. However, the mediation really is
20 looking at the key decision-makers for the LEA and
21 the parent. Oftentimes, it can have legal
22 representation for both sides of the equation.

23 And the product for a facilitated IEP
24 meeting is, of course, a newly reviewed and
25 revised IEP. The product in mediation is a new

1 mediation agreement that is enforceable by the
2 State. It is subject to a state complaint, and it
3 may prompt a review and revision of the IEP by the
4 IEP team based on what is agreed upon in the
5 mediation agreement.

6 MR. HUSSEY: Now, as you can see,
7 there is at least some significant change in both
8 years in the number of requests and the number of
9 mediations. And, basically, what we were saying
10 there is there are certain areas of the state
11 where particular attorneys are -- and we don't
12 have this as solid pieces of evidence, but part of
13 this is that certain attorneys are really not
14 doing mediations. They want to move on through
15 the process. And so, you know, we are seeing a
16 following off in that.

17 Once before in this meeting with you
18 guys, I brought up this issue of making sure that
19 you're aware of and making sure that we support
20 the total package of what is there in dispute
21 resolution and that parents have the access to and
22 availability to each and every part. And so I
23 want to reiterate, again, that it's very, very
24 important that we make sure that you are aware of
25 mediation, that you can access mediation and the

1 availability is there.

2 And, also, when you're in mediation,
3 it is important that you as a parent -- and
4 information to share with other parents -- it's
5 important that you participate in the mediation,
6 that it's not just done through the attorneys.
7 Parents have to be actively engaged in this. And
8 so we need to just make sure that -- part of what
9 I'm doing is giving you-all information to share
10 as you-all are asked other questions in other
11 places and other times, and so, you know, that
12 becomes an important part of that.

13 Total agreement reached, obviously,
14 we had fewer in '16-17, but we also had a lesser
15 percentage of those that when they were actual
16 mediations held that we were able to reach total
17 agreement.

18 Total number of mediations held, due
19 process pending. So, again, a different set of
20 numbers, 31 and 18 by agreement. Now we've got a
21 pending due process, and so we had pretty strong
22 numbers in '16-17 in that in 72 percent of those,
23 we reached an agreement. Again, in '15-16, a
24 lesser number at 48 percent, and again, you know,
25 we had no agreement '15-16 with that 48 percent,

1 so basically half and half, with no agreement at
2 all, and so in '16-17, you can see just 17
3 percent.

4 So, again, each of these cases is
5 going to be different, the issues surrounding it.
6 As Nancy said earlier, the degree of acrimony
7 between the two parties. You know, we can't
8 measure these things in the numbers themselves,
9 but that's what creates the difference as
10 obviously, for whatever reason, in '16-17 of the
11 ones held, we were able to find a way to get to an
12 agreement on those.

13 Total number of mediations held, no
14 due process pending. So, again, another set of
15 numbers, but you can see, again, we seem to be
16 doing much better at this in '16-17 as far as
17 getting agreement and working through the process
18 versus what we were able to do in '15-16, and
19 again, without going into each case, you wouldn't
20 know what or why.

21 You know, as a local director, I had
22 mediation. It really does depend on the various
23 circumstances of the individuals sitting around
24 the table, the actual mediator themselves, and the
25 depth and the seriousness of the issue, you know,

1 and where the emotions are behind that. I will
2 tell you, in one of them, I basically met with the
3 parent the following day and said, "We don't need
4 these guys anymore. We can configure this out by
5 ourselves," and we did.

6 It just wasn't -- it didn't go well
7 that first -- and so sometimes those things just
8 happen. So you just need know, as you go through
9 this process, there are lots of extenuating
10 circumstances behind all of them, and you know,
11 you just have to look at the numbers and
12 understand each one is very, very different.

13 So state complaints. Are you-all
14 familiar with state complaints?

15 **(No audible response.)**

16 MR. HUSSEY: You want to talk a
17 little more. You're much better at the full
18 explanation.

19 MS. HUDGENS: Sure. So a state
20 complaint is the opportunity for a parent or a
21 third party on behalf of a child to file a state
22 complaint relative to the procedural safeguards
23 that are in place for parents and students. So,
24 for example, if an IEP wasn't reviewed annually,
25 that could be an item that is investigated through

1 a state complaint process. If the IEP wasn't
2 implemented as it was written, that could be
3 investigated through the state complaint process.
4 Essentially, is there a process or procedure that
5 is preventing the child from accessing FAPE, a
6 free appropriate public education.

7 And so what happens is that the
8 individual making the complaint will send that
9 complaint into our office. Within a reasonable
10 amount of time, that complaint is reviewed, and if
11 there are issues that can be investigated, we
12 notify both the person making the complaint and
13 the school system of what those issues are. Then
14 we request certain items relative to assisting us
15 to investigate that complaint. It might be
16 submitted by the LEA. The person filing the
17 complaint also has the same period of time to
18 supply additional information.

19 Then we go into -- and we highly
20 encourage that during the first 15 days of the
21 60-day timeline that families and LEAs try to
22 engage in early dispute resolution, so the
23 facilitated IEP meeting, perhaps a mediation.
24 Those things are highly encouraged during that
25 resolution period or that early dispute resolution

1 period of the complaint.

2 If the complaint can't be resolved
3 through those mechanisms, then the investigation
4 occurs. We notify both parties of whether or not
5 a finding of noncompliance was discovered and what
6 must be done in order to correct that area of
7 noncompliance. Most commonly, it could involve
8 some compensatory education for the student if
9 services were not implemented as it should have
10 been. It always likely involves training and
11 support so that we can ensure that those
12 difficulties don't occur again for other
13 similarly-situated students.

14 We've initiated a debriefing
15 conference that occurs with the school system, in
16 particular, so that we can expand upon the
17 different procedural things that might have
18 occurred and things that they might need to
19 consider when looking at their practices locally.
20 And so we track that corrective action and make
21 sure that those items are indeed remedied, and
22 then we close that complaint when we have
23 sufficient information to support that corrective
24 action has been completed as ordered. Yes,
25 ma'am?

1 MS. McNEILL: How would a parent know
2 to make that complaint? Is there a formal process
3 that they would go through or fill out a form or
4 just call or---

5 MS. HUDGENS: A variety of things.
6 If families call our office, we try to give them a
7 wide range of options available to them from the
8 early dispute resolution to the formal processes.
9 We also make available on our website those
10 resources on how to do that, and there are some
11 documents for how to complete those items. If a
12 parent were to need some assistance with
13 completing those documents, we can, to a limited
14 scope, provide some information on how to do so,
15 but then we might refer the family to the
16 Exceptional Children's Assistant Center if they
17 have more detailed things that they want to talk
18 through.

19 And we've also developed some
20 brochures, and as part of our monitoring
21 mechanism, one of the things that we look at for
22 technical assistance purposes is what does the LEA
23 have posted on their own website relative to
24 dispute resolution mechanisms that parents can
25 access. You had a question?

1 MS. MOOREFIELD: I did real quick.
2 So your office only deals with complaints
3 regarding IEPs. Do you handle complaints
4 regarding other aspects of exceptional children
5 such as transportation, such as -- things like
6 that?

7 MS. HUDGENS: So a short answer would
8 be yes, because it's highly likely that all issues
9 associated with special education involve some
10 procedural aspects. Where there are a little bit
11 of differences is in matters that appear to be
12 more human resource related or if they are matters
13 involving discrimination which might have to be
14 investigated by the Office of Civil Rights, and if
15 so, we provide information to the person raising
16 that complaint about other mechanisms that they
17 can pursue based on the framework of what we can
18 and cannot investigate.

19 MR. HUSSEY: The example of the
20 transportation piece that you're talking about is
21 that we do not have control over the mile or mile
22 and a half distance in which a bus can -- you
23 know, you've got to live that much farther out
24 from the school to be picked up by a bus. That
25 would not be a procedural issue that we would deal

1 with. That could be a bus transportation problem.

2 MS. MOOREFIELD: But if it were an
3 issue where -- a specific one is that in North
4 Carolina, the counties that contract buses to
5 transport children with special needs, since they
6 are contracted, it's perfectly legal to pass those
7 buses when children are unloaded and loading. So
8 would that be something that you guys would
9 handle?

10 MS. HUDGENS: The framework in which
11 you'd raise that sounds like a Department of
12 Transportation issue and not necessarily a special
13 education issue, although that is completely
14 concerning. And what we would do, if we had
15 received that concern in our office, is that we
16 would contact the EC director and encourage them
17 to have some conversation with that private entity
18 that's providing information and look at what
19 mechanisms they have for the pickup location just
20 to preserve the integrity and the safety of the
21 students. So we do provide some technical
22 assistance follow-up in things that we need to
23 bring to the attention of the director.

24 To Bill's point, some things that we
25 would investigate is that if the child's IEP

1 required that the child had special education
2 transportation, we would ensure that that is being
3 provided within the scope of how the IEP
4 articulated it needed to be done.

5 MR. HUSSEY: I'm hoping that's
6 supplemental transportation. That's not the
7 regular district's transportation.

8 MS. MOOREFIELD: Oh, no. That's his
9 regular transportation every day, but it's a
10 contract with a company so they're not technically
11 school buses, and so it is perfectly legal to pass
12 them even when my son is on the lift.

13 MR. HUSSEY: But that's -- so the
14 school has no buses with a lift on it?

15 MS. MOOREFIELD: Apparently not. I
16 don't know. I just know he's always been on a
17 contracted bus.

18 MS. HUDGENS: So let me just say
19 this, I mean, based on the details that you're
20 able to provide, if you feel like there could
21 potentially be a procedural issue involved in
22 that, it does not hurt to write a letter to our
23 office with the specific details because, to the
24 extent that we're able to, we're going to provide
25 some support and at least point the individual

1 raising the concern to the right direction.

2 I know that in LEAs and, to some
3 extent, charter schools as well, they will have a
4 transportation coordinator. So even if those
5 services are contracted, there are appropriate
6 folks at the local level that might be an
7 appropriate resource to advocate for school safety
8 and the passing of traffic. It could be something
9 relative to having crossing guards in place or
10 having a secure place.

11 If this is just en route on the
12 highway, then that's going to get a little bigger
13 than us with the Department of Transportation
14 perhaps. So there's a lot of nuances there, but
15 more than happy to help kind of problem solve---

16 MS. MOOREFIELD: I've been told that
17 there are three fairly simple things that need to
18 be done. I just didn't know where that should be
19 directed, and since you guys brought up the---

20 MS. HUDGENS: Sure.

21 MR. HUSSEY: I think, if you'll write
22 us a letter, that we can help you figure that one
23 out because that is concerning.

24 MS. MOOREFIELD: That would be great.

25 MR. HUSSEY: All right. So I kind of

1 got lost in the conversation here, but back to the
2 numbers. So, again, in '15-16, you can see the
3 total number of complaints, and also, what you can
4 see here -- and I think that's really important --
5 is seeing how many of the reports were found to
6 be -- inside of these reports included issues of
7 noncompliance, and you can see 43 out of the 54
8 investigated had some issue with noncompliance.
9 Ten of those were found to be totally in
10 compliance, and you can see that one report not
11 issued yet.

12 I've got to ask that question. Why
13 would that happen? And, basically, there are
14 circumstances surrounding that one. When we got
15 this report on the data, it had not yet been
16 issued, and actually, the person in the backroom
17 who is responsible for that said, you know, that's
18 being processed now. So that's what that one is.

19 MS. HUDGENS: Right. And I'll just
20 add, you know, state complaints are filed
21 regardless of when we report to the federal
22 government. So you can have a complaint filed on
23 June 30th which would count for your '15-16 year,
24 and it's not going to be issued till 60 days after
25 that which is another reporting year.

1 So sometimes when you see these
2 anomalies, it's also because it bridges a
3 reporting year. It's not necessarily that it's
4 out of compliance; it's just that the date in
5 which it was filed is going to span a reporting
6 year. And then to Bill's point on other issues,
7 they could be agreeing to extend the timeline
8 because they're engaged in some pretty significant
9 dispute resolution.

10 MR. HUSSEY: And in this particular
11 case, this person seemed to know that one and said
12 that's what was going on at that point.

13 Total number not investigated. And,
14 again, 20 of those were dismissed by DPI. 25 of
15 those were withdrawn, and usually, when they're
16 withdrawn, it's because the parent and local
17 district have come to agreement about those issues
18 and they no longer feel they need to file a formal
19 complaint, that those things have been done.

20 MS. STALNAKER: What about when
21 they're dismissed?

22 MR. HUSSEY: They're dismissed
23 because of various reasons. Again, not enough
24 evidence. Do you want to go through the litany?
25 There's quite a few things.

1 MS. HUDGENS: Tag. I'm it.
2 Typically, through those that are dismissed is
3 that because they didn't raise an issue that we
4 could investigate within the context of procedural
5 issues with IDEA. Like I mentioned earlier, they
6 may have a dispute with who the child's teacher
7 is. That does not necessarily constitute a denial
8 of service. So you will notice that there are
9 very few of them when you look percentagewise
10 because there are typically very legitimate issues
11 that we need to take a look at, and we do so.

12 MR. HUSSEY: And, again, as we've
13 said, withdrawn, most of those are for reasons of
14 consensus.

15 This just gives you the compliance
16 versus noncompliance, and you can see just
17 graphically the difference. Again, 77 versus 100
18 which is -- we don't have enough points here to
19 have a pattern. We just had fewer complaints that
20 year. Again, total number of those investigated
21 was 47. 30 of them were not investigated. Again,
22 reports for noncompliance. I won't go through all
23 this. You-all can read that, but you can see
24 percentage of those -- I think we were at ten
25 percent last time compliant or 19 percent

1 compliant.

2 So we're really -- most of the time
3 when these complaints are made, there are
4 procedural issues of concern, and so the parents,
5 you know, done what they needed to do to make sure
6 that their due process rights and their children's
7 due process rights were dealt with and supported.
8 So, again, reports with no noncompliance, 7 out of
9 the 47. Again, the same reasons at the bottom for
10 withdrawing and being dismissed. There were less
11 being dismissed that year. So, obviously, we did
12 a little bit better job -- the parents did of
13 getting information in and what needed to happen.
14 And then the total number of those that were
15 withdrawn.

16 Again, the pie. Now this is due
17 process petitions. These are the ones that
18 actually are filed and go to due process, and
19 you've got a larger number of cases there as far
20 as the years are concerned just for you to be able
21 to see that. I think the interesting part is
22 going over to the far right and actually looking
23 at the number of hearings because in '12-13 and
24 '13-14, we had lots of them filed, but we actually
25 never went to -- went to hearing.

1 And that started to increase in
2 '15-16, and what is the trend right now is that we
3 do have more and more cases going to due process.
4 It is a small number, but as you can see, our
5 history is that most of the time we have one, two,
6 none that actually go to hearing. We've got more
7 and more of that happening now. Again, we have
8 different attorneys looking at different
9 information there and deciding how they want to
10 move forward with their cases. So we have -- you
11 know, it's just a difference in the way that the
12 litigation is moving forward.

13 Excludes expedited petitions. Those
14 resolve through resolution agreement, mediation
15 agreement, or settlement agreement. So these were
16 the ones filed and then settled one way or the
17 other, with or without hearing.

18 So now we're into Carolyn's side, and
19 I will try my best to do what she did without
20 going -- what she really did -- what you're going
21 to see is that she offered a number of tips, and
22 we'll just go through them. Again, like I said, I
23 won't try to be the lawyer, but just walking
24 through and making sure that you see what we
25 brought before the rest of the group and the

1 information that we shared.

2 So her basic query was what often
3 proceeds filing for a due process petition. So,
4 basically, what she wanted to make sure that the
5 directors understood is that that's a student
6 records request, and that's what's asked for. And
7 so she went through Tip Number 1. If you receive
8 a student records request from an attorney's
9 office -- and this is where it's obviously for EC
10 directors -- so you need to be proactive, you need
11 to audit the file, you need to meet with the team,
12 and you need to fix any found weaknesses.

13 So we're working in that process of
14 going through because a lot of times it's when the
15 district gets that information at the district
16 level, they realize what's going on, they can fix
17 things then and work through those processes to be
18 able to hopefully remediate whatever the issues
19 might be.

20 So a petition is filed. A first
21 opportunity for settlement is a resolution
22 session, and again, she gives you the factual
23 information there. So within 15 days of receipt
24 of the petition by the superintendent, unless
25 waived in writing by both parties. So it's

1 informal. Attorneys at the options of the
2 parents. Parents have no right to audiotape.
3 It's not confidential. And you've got three days
4 after that to change your mind. If you didn't
5 like the decision or you had walked away thinking
6 that's what you wanted and you got home and you
7 started thinking about it, then you have the three
8 days to change your mind.

9 MS. HUDGENS: Can I add some---

10 MR. HUSSEY: Sure.

11 MS. HUDGENS: ---to the
12 nonconfidential? All student information relative
13 to students with disabilities and their personal
14 identity information is confidential. What is
15 unique about this particular statement is that if
16 you have a mediation agreement, that is
17 confidential to the due process procedures.

18 So the conversations that can occur
19 in a resolution meeting and the problem-solving
20 solutions that were put on the table during a
21 resolution meeting, those can be brought in as
22 pieces of information to be considered during a
23 due process hearing. So that's the difference
24 there with the confidentiality. It's not just a
25 free-for-all that personal information is going to

1 be shared about, but it relates to agreements
2 made. And there's a difference what can be
3 entered into a due process around agreements that
4 are made in resolution versus mediation.

5 MR. HUSSEY: Success of the
6 resolution sessions. And so, again, you can see
7 as you go across the numbers that were held,
8 numbers resolved, percentage rate. Except for in
9 '14-15, they're pretty consistent, about a 50
10 percent success rate in going through them on
11 average. And, again, I don't know what happened
12 in '14-15. It just didn't go very well. Like I
13 said before, there are so many different variables
14 in each of these cases. It's very hard to
15 understand other than just looking at the numbers.

16 Tip number 2, know the common
17 barriers to settlement at the resolution session
18 and avoid them when possible. Again, these are
19 barriers to settlement. No advanced preparation
20 by the school district. So, again, we're talking
21 to the districts. You don't get that advanced
22 preparation. So you move into this -- so, again,
23 back to the first one, when you're going through
24 the files when you've got that petition, it
25 becomes incumbent upon the directors to basically

1 understand what's going on in the case and have
2 the facts at hand when they go into one of these
3 resolution meetings and being prepared to do that.

4 Bring people to the table with poor
5 relationships with a parent. You want to avoid
6 that if at all possible. Unrealistic expectations
7 of either party. Again, as Carol Ann said, this
8 is information that they -- if it's not settled,
9 people need to know going in that things we had
10 said in there can be carried forward. You're not
11 going to probably settle the whole thing. So
12 that's one issue.

13 Then another issue or another concern
14 is that you're really not going -- you're not
15 going to come up with a magic bullet at that
16 point. You're already that far through that
17 process. So, you know, what is it that you're
18 going to really be able to get to and accomplish
19 in trying to go in with the bar at least able to
20 be moved, not at a place that's going to catch you
21 and keep you from being able to get to resolution.

22 Either party not attempting to
23 mediate in good faith. You know, Carolina did
24 talk about the fact that, you know, there are
25 times when you get in there and it's clear that

1 that's not -- there's no real purpose to the
2 meeting. No one's really there to settle it, and
3 so sometimes you just have to get up and walk
4 away. But you really want to try to keep that
5 from happening.

6 MS. MEBANE: I have a question.

7 MR. HUSSEY: Sure.

8 MS. MEBANE: I've never been to a
9 resolution meeting. I've been to mediations and
10 so there's a mediator. Is there a facilitator
11 involved in the resolution meeting?

12 MR. HUSSEY: Huh-uh.

13 MS. MEBANE: So it's just the two
14 parties?

15 MR. HUSSEY: Uh-huh. It's just the
16 two groups there.

17 MS. HUDGENS: Yeah. And really it's
18 about recognizing that the ability to communicate
19 effectively has been damaged, and this is an
20 opportunity to have some candid conversation with
21 the decision-makers and that's usually LEA
22 personnel and the parents. And so it is really a
23 nice opportunity to try to really get to the root
24 cause of issues when you don't have the IEP team
25 present or other people present. And sometimes

1 that creates a platform for some more candid
2 conversation for problem-solving.

3 MR. HUSSEY: And so what it said was,
4 if you remember, about not bringing the people
5 with the bad relationships. So not having that
6 negative energy in the room sitting there around
7 the table with you and being able to try to
8 settle, having another view of what the problem
9 may have been at the school level from the level
10 of those folks at the district level trying to
11 help settle this. So---

12 MS. HUDGENS: And just another little
13 kind of insight to the data is that a lot of
14 families in school districts in dispute will waive
15 that resolution because if you think about it, any
16 kind of parts of these decisions are going to
17 involve more people and more problem-solving
18 activities.

19 So when you waive resolution,
20 although you can have a resolution agreement,
21 mediation provides an agreement also, and so
22 sometimes the parties will skip what they might
23 feel would be a duplicated meeting when tensions
24 are already really, really high so that they can
25 get that impartial person in there and have them

1 help facilitate an agreement of some sort. So
2 it's not a bad thing. We don't view it as a
3 negative result, if you will, if resolution is
4 bypassed. We look at it as a negative result if
5 it was never offered in a timely fashion.

6 MR. HUSSEY: Perfect segue in. So a
7 petition is filed. The second opportunity for
8 settlement is mediation again through DPI. The
9 parties can both waive the resolution session, as
10 she was just describing, and go directly to
11 mediation or they can attempt resolution and, if
12 unsuccessful, request mediation. So, again, the
13 differences are right there as to the due process
14 as guided by a DPI mediator often involving a
15 caucus.

16 And, basically, what that is, is
17 everybody gets together and they put it out there
18 on the table and then the two parties separate, go
19 back, caucus, come back with different ideas about
20 how to create that solution or an agreement with
21 what the solution was, and we settle at that
22 point. Either party can be represented by an
23 attorney. In any case that I've been to when
24 we've gone to mediation, attorneys were there.
25 I'm certain that they're not always there, but

1 most of the time when you're at that level, they
2 are participating.

3 Confidential. And Carol Ann went
4 through what the difference was there. No taping,
5 limited notes. Signed agreement is immediately
6 binding. So when that mediation agreement is
7 there, it's signed, it goes into effect then.
8 And, again, as she described earlier, this
9 information is not allowed to be brought forward
10 if, in fact, you then come back and go to due
11 process.

12 MS. STALNAKER: Just a quick
13 question. Where it says there's no taping and
14 there's limited notes; what if you have a case
15 where a parent themselves has a disability and
16 would need to take those kinds of notes or---

17 MR. HUSSEY: Access is a whole other
18 issue.

19 MS. HUDGENS: So when the request is
20 made for a mediation, whether it's as a result of
21 due process or just in a typical dispute where
22 mediation is necessary, in the request for
23 mediation, we look at whether or not special
24 accommodations need to be made for either party,
25 if there's translators that need to be required,

1 because we want to make sure as a function of our
2 office that both parties have a clear
3 understanding of the discussion and are able to
4 participate fully.

5 MR. HUSSEY: So access is always a
6 priority, making sure that it's accessible to the
7 parent.

8 Again, the petitions resolved in
9 success of mediation, inside of that process.
10 Again, '14-15 was lower than normal, but '15-16
11 didn't do as well either. Most of the time, we've
12 been fairly successful with the mediations in
13 getting those things resolved. Again, you see the
14 numbers increase as we move forward in the years,
15 and so for '16-17, 72 percent is pretty good,
16 significant. Again, numbers tell you what they
17 tell you.

18 Tip 3, increase the chance for
19 success at mediation, and I'm not going to go
20 through everything. But, again, it's -- I'll go
21 to number 3. I was a director for almost eight
22 years and I never went to due process, and I
23 think probably the biggest part of that was that
24 number 3 was pretty simple to me. If we didn't do
25 it right, we should acknowledge that up front, and

1 if you acknowledge it up front, it's amazing how
2 much of the conversation just goes away. You've
3 got -- you didn't do it and so there's no reason
4 to fight the issue.

5 But that becomes a real big piece of
6 the mediation. You've got to be able to owe up to
7 whatever went on in the process and in that piece
8 and be able to talk about it, you know, and that's
9 on both sides. But particularly, again, because
10 this was at directors, she made a big point to
11 making sure that, you know, you don't fight just
12 because it's time to fight. You know, you really
13 need to own up to that piece and work through it.

14 You do need to set aside sufficient
15 time. My mediation, the one that I ended up
16 settling with the parent by myself, took us all
17 day long, and sometimes it does, and so you can't
18 go in there thinking you're going to get a quick
19 resolution and get out and be done.

20 So, again, don't call it quits too
21 soon. Sometimes one of those caucuses, when you
22 pull out, that you come back, you know, somewhere
23 in there something clicked, somebody thought about
24 something else, and it was really all that was
25 necessary to put on the table to get it to work.

1 So, again, talking to directors about trying to
2 hang in there and try to make that successful.

3 So, again, what she did here is she's
4 gone back and she's looked at -- and this is her
5 data. This isn't our data anymore. This came
6 directly from her law office. And, again, the
7 cases that they had, the number of LEAs involved.
8 Pro se is when a parent basically is representing
9 themselves. So you can see the number of cases
10 that were pro se. So these are with her districts
11 that she represents, and again, it doesn't -- like
12 she said, this is her sample set. This doesn't
13 represent all due process petitions filed during
14 that time.

15 But you can see that there are
16 certain attorneys, and she basically went through
17 some information there basically talking about,
18 you know, various -- she didn't talk specifically
19 about counties and/or individual attorney names,
20 but she just talked about the fact that there are
21 patterns now that they're seeing where certain
22 attorneys are going to due process more often.
23 And that, again, this seems to be a trend, as you
24 can see over '17, where attorneys who were not
25 doing this approach prior are beginning to move

1 forward.

2 And what she was trying to do in this
3 was just simply say to the directors, you know,
4 you need to be aware that things are changing and
5 that when these things come to you, the likelihood
6 that they're going all the way to hearing is
7 increasing, and you need to be prepared with all
8 the other prior tips given to this point to be
9 ready to move through that process.

10 Resolved at resolution. Again, the
11 pro se piece is just trying to go through the
12 data, and it's -- these aren't very successful
13 cases on the part of the parents. I'm trying to
14 think how to say this. This is not a good idea to
15 go pro se and try to carry forward your own
16 issues.

17 You really do need an attorney, and
18 that's pretty much what this is telling you here.
19 And so it becomes very difficult when you get
20 there. You've got -- you're in a trial so you've
21 got to be able to follow the procedures and do
22 everything the way you're supposed to, and it just
23 becomes very difficult.

24 There are nine of these things, so
25 I'll try to -- and some of them, we'll get through

1 pretty quickly. I won't try to drag this out for
2 long. But the statute of limitations for bringing
3 a due process petition is one year from the date
4 the parent was aware or reasonably should have
5 been aware of the issue being challenged. Again,
6 trying to make sure people are aware, and I'm just
7 going to go back because when you withdraw without
8 prejudice, that does actually extend that period
9 of time. So that was another issue brought up
10 here that people needed to understand when they
11 were withdrawn without prejudice, that doesn't
12 necessarily mean that you weren't going to see
13 that case again, and that's kind of where she's
14 going over the next couple of slides.

15 Did I hear somebody have a question?

16 **(No audible response.)**

17 MR. HUSSEY: A poorly drafted prior
18 written notice could mean the statute of
19 limitations does not apply, and she gives
20 exceptions. The parent was prevented from filing
21 a petition because of specific misrepresentations
22 made by the LEA that it had resolved the problem
23 forming the basis of the petition or the LEA
24 withheld information from the parent that it is
25 required to provide, so what's in the handbook.

1 So, basically, what they're saying is
2 there is another way in which this thing actually
3 could be extended, and that is if that prior
4 written notice is written poorly, and those are
5 the two examples of how it could potentially be
6 extended.

7 So, again, she talked through the
8 judges. I don't know the judges well. But
9 Bawtinhimer, the last judge down there who has the
10 most cases, she was a parent attorney for a lot of
11 years. It's been real interesting with her
12 sitting on the bench. Everybody wondered how she
13 would do. She's doing a great job. She is very
14 level in how she looks at everything, very
15 judicious and fair. You know, she really
16 understands the process through and through. So
17 it's been a real interesting piece there with her
18 there.

19 Due process cases filed that went to
20 hearing. Again, back to the numbers we showed you
21 earlier, they are increasing -- in '17 one so
22 far -- over the last three or four years. So
23 we've got a trend going up. We had a blip there
24 in '11 and back to what was normal. And, really,
25 I don't know, Carol Ann, if we have any history,

1 but one, two, and three -- three would be the most
2 we would have had, and one or two per year was
3 really an average kind of, of what we had going
4 back a number of years beyond 2011.

5 MS. HUDGENS: I think some of the
6 things that we have hypothesized about why more
7 are going to hearing too is related to whether or
8 not parties are willing to engage in dispute
9 resolution. We have noticed a trend that when
10 disagreements arise in the current time, those
11 disagreements are so raw and significant and
12 intertwined amongst other issues that it appears
13 that the platform in which the parties wish
14 to engage in -- and I'm saying this too from the
15 LEA side of things -- is that they want to go on
16 into having that opportunity for hearing.

17 And back to some of Bill's earlier
18 slides, bringing the right people to the table is
19 such an important thing, and unfortunately, a lot
20 of things that go to hearing, of course, the
21 dispute originated at some missteps on somebody's
22 end. And so sometimes that exponentially builds
23 upon each other, and then just as parents are
24 advocating in the direction that they believe to
25 be true, right, and appropriate, LEAs are as well.

1 And so they are not as reluctant to engage in
2 hearings if they feel that the situation justifies
3 that part of the process.

4 MR. HUSSEY: And that's where, again,
5 in that one piece where it says you should admit
6 when you're wrong---

7 MS. HUDGENS: Yes. What we've been
8 trying to say nicely is we have some hardheaded
9 LEAs as well.

10 MR. HUSSEY: It's just -- I mean
11 you've got to just own up. You know, you're not
12 going to win on procedure if you're wrong.
13 Procedures will let you down.

14 Summary judgments on the eve of the
15 hearing. So, basically, it was settled at that
16 point and the judge was able to be able to make
17 that summary judgment and close it out. So we've
18 had four in '15, one in '16, and none so far this
19 year.

20 Party seeking the relief bears the
21 burden of proof at the hearing. And, again,
22 length of hearing when case is dismissed after the
23 parent completes their case. So in '14, again,
24 the cases went on for one day, two days, five
25 days, and then one case in '15 in two days. And,

1 again, no cases so far in -- or no cases in '16.

2 MS. STALNAKER: So is that because it
3 took the LEA that long to present their side?

4 MS. HUDGENS: A couple of different
5 things. Because the act of civil procedure is
6 still alive and well, both parties are able to
7 file motions to continue, to discover, to
8 subpoena, to extend, and so that part of the
9 process adds into the timeline. And then, you
10 know, for whatever reasons, if they try to
11 problem-solve in the middle or you get a certain
12 amount of days on the docket to put your hearing
13 forward and if it can't be concluded in that time,
14 then you've got to get back on the docket again.
15 And so those days aren't always consecutive, and
16 so there's breaks in the hearing schedule.

17 MS. STALNAKER: Okay.

18 MR. HUSSEY: And one of the things --
19 because Carol Ann and myself and some of the other
20 dispute resolution folks went and talked with
21 Judge Bawtinheimer and another judge and some
22 parent attorneys -- another issue going on is
23 being succinct in the problem, and so a lot of
24 what happens is that we talk a lot about other
25 things that aren't really relevant to the specific

1 problem.

2 And so that's another one of the
3 things that we're trying to work -- just to
4 expedite the process and make it more effective
5 because in the end, it's the kid who's being
6 bounced in all this process, and so the quicker
7 you can get through it, as long as you -- again,
8 some cases are going to last longer because
9 they're more complicated, but you know, really
10 trying to find a way to get to that point where we
11 can make it work better.

12 Tip 7, actions of local boards. And,
13 again -- I think these are just interesting for
14 you-all to see. Actions of local boards of
15 education are presumed to be correct. Taken
16 together with the burden of proof, parents'
17 evidence at hearing must outweigh evidence in
18 favor of the board if they are to prevail against
19 an LEA. So this is from the general statute.

20 So you walk in with this that you're
21 working against. There's presumed correctness of
22 the decisions by the board, and then it is the
23 parents' burden of proof, you know, where -- with
24 the burden of proof, it's the parents' evidence at
25 hearing that must outweigh the evidence in favor

1 of the board if they are to prevail.

2 So, again, you know, we're talking to
3 special ed directors trying to make sure they
4 understand, you know, but you've got to keep
5 circling back to making sure -- back to that very
6 first slide about that file. You've got to make
7 sure that when you walk in with that case that you
8 are comfortable that you can prevail and that your
9 evidence is going to stand up against the parents'
10 evidence and be found appropriate.

11 And this was just -- we just talked
12 about Andrew again, and I'm not going to read all
13 that. A reviewing court may fairly expect the
14 authorities -- this is the last sentence there --
15 expect the authorities to be able to offer a
16 cogent and responsive explanation for their
17 decisions that show that the IEP is reasonably
18 calculated to enable the child to make progress
19 appropriate in light of his circumstances. So,
20 again, you know, back to that file, back to the
21 placement options, back to the issues that you
22 considered, you've got to be able to explain those
23 decisions and that, within those decisions you've
24 made, it's reasonably calculated that that IEP
25 that we're talking about, which is why we're in

1 due process, will enable the child to make
2 appropriate progress in light of his
3 circumstances.

4 So, again, this is new law. We've
5 had several cases in the last two years that
6 really reflect placement considerations and issues
7 related to that, and it's that that's going to
8 be -- this is going to be a huge part of what goes
9 forward, and pretty much that's what she was
10 saying, is that you need to be ready to be able to
11 support what your IEP is saying because more and
12 more questions are going to come as a result of
13 this lawsuit or this case, and until we get good
14 solid law on the back side of it, people are going
15 to keep testing the boundaries of this case to
16 figure out what's going on.

17 Again, length of hearings when both
18 parents and the LEA present their cases. You can
19 see, as we get down towards '16, they start to
20 expand. So, again, one case so far this time --
21 this year with a pro se parent.

22 MS. HUTCHINSON: Bill, can you go
23 back one slide?

24 MR. HUSSEY: Sure.

25 MS. HUTCHINSON: The 2017, that is

1 December to December or that's August to July?

2 MR. HUSSEY: Is it August to -- well,
3 I think it's the school year.

4 MS. HUTCHINSON: So that would be the
5 '16-17 school year you're reporting as 2017?

6 MS. HUDGENS: So I need to make sure
7 I heard the complete question. I'm sorry. I'm
8 multitasking over here. Can you ask again?

9 MS. HUTCHINSON: Define the 2017
10 there.

11 MS. HUDGENS: From July 1 of 2017
12 forward.

13 MR. HUSSEY: So fiscal year.

14 MS. HUTCHINSON: [Inaudible] '17-18,
15 right?

16 MS. HUDGENS: Yes, we would.

17 MR. HUSSEY: Yes.

18 MS. HUTCHINSON: So I was feeling
19 pretty thankful that we're two weeks from the end
20 of 2017 and there was one, but maybe not so much.

21 MR. HUSSEY: Well, that's only one
22 that's---

23 MS. HUDGENS: Been filed.

24 MS. HUTCHINSON: Maybe not so much.
25 We're not there yet. Okay.

1 MS. HUDGENS: There's a lot of days
2 in '17-18.

3 MS. HUTCHINSON: I was hopeful. I
4 was hopeful.

5 MR. HUSSEY: Going beyond the due
6 process hearing, so going on to a state review
7 officer. So this is really about appeals and what
8 happens as it goes on. And so we've got -- you
9 can see how they've been settled or not settled,
10 the reviews. We've got them going to federal
11 court. It's always a process. There are
12 timelines there for each of those by which you
13 have to file to make sure that you're eligible to
14 go forward with each of those appeal pieces, but
15 they are appealed. Yes?

16 MS. VLASATY: Do you want to explain
17 to the group too about North Carolina and the
18 dual-tiered system and what that means? Because
19 that is unique to us.

20 MS. HUDGENS: Yeah, and thank you,
21 Jennine, for pointing that out. We have what is
22 called a two-tiered appeal system in North
23 Carolina, and the first level of appeal is to have
24 your due process hearing with an administrative
25 law judge at the Office of Administrative

1 Hearings.

2 So then the next appeal process is
3 that either party can appeal to a state hearing
4 review officer, and those individuals are
5 typically professors of law specializing in
6 special education law, and what that review
7 consists of is not a hearing. You don't go and
8 retry your case again, but they do go back and
9 read all of the transcripts, all of the testimony,
10 all of the artifacts that were submitted, and
11 review the conclusions of law that were made by
12 the administrative law judge. And they have the
13 authority to either uphold those decisions, uphold
14 some of those decisions, or uphold all of those
15 decisions.

16 And so the outcome of the hearing
17 officer's result can then be further appealed to
18 federal court by either party. It is a process
19 that North Carolina has employed to ensure checks
20 and balances are there for the specificity of
21 special education law and how that law supports
22 substance with programming and options for
23 students with disabilities. It's a checks and
24 balances that has been challenged, if you will.

25 Routinely, it has been challenged in

1 multiple venues, both at the federal level and
2 definitely with the Office of Special Education
3 Programs. However, the challenges continue to
4 result in the fact that it is an appropriate
5 system that is in place and under its current
6 organizational structure does afford parties the
7 opportunity to comply with the spirit of IDEA,
8 which is to raise concerns and have appeals when
9 their concerns are not addressed in the fashion
10 that parties hoped it would be.

11 MR. HUSSEY: We just had a
12 conversation with the Office of Special Education
13 Programs concerning the two-tiered systems just
14 last -- two weeks ago. Actually, the follow-up
15 was yesterday, but it started two weeks ago. So,
16 yeah, it happens fairly regularly.

17 You can see at the bottom there was a
18 fourth of those 2016 decisions -- the fourth one
19 was expected that week. We were actually
20 providing this presentation, and based -- the
21 assumption was regardless of which side won or
22 lost, somebody was going to appeal so that one's
23 going to move forward.

24 MS. HUDGENS: And, really, here at
25 the Department, we don't look at any of the

1 decisions as a win or lose for either party. Our
2 feeling is that the complexity of the issues and
3 the length of time it chooses -- that it takes,
4 there is a toll on all parties considered, and it
5 is very stressful for all parties involved.

6 And so we just -- we would like to
7 see other options utilized earlier on for a more
8 immediate response to the difficulty at hand, but
9 we certainly respect and maintain the integrity of
10 these processes so that we can be assured that the
11 appropriate platforms are utilized when those
12 concerns just can't be resolved among other
13 strategies. But at the level of due process
14 petitions and appeals, there really aren't winners
15 here. That's my personal opinion.

16 MR. HUSSEY: I said this to the folks
17 in the audience, and I may have said it to you.
18 If I did before, I apologize. But I was on the
19 stand in a due process hearing when someone came
20 in and got the judge's attention, went up and
21 whispered something in his ear, and the judge
22 said, "Mr. Hussey, you need to go home. Your
23 house has just been robbed." And I don't think
24 I've ever been so grateful to actually get out of
25 the middle of that situation even with that issue.

1 I mean it really is a difficult situation to be
2 in. It can be very, very stressful.

3 Again, these are the issues in 2014.
4 School assignment, individual educational
5 evaluation challenge -- independent -- excuse
6 me -- educational evaluation challenge, FAPE
7 private placement -- FAPE private placement, and
8 then FAPE implementation. So the next one is --
9 the year, exit, and here you -- again, Andrew
10 wasn't there yet, but LRE, LRE, they're becoming
11 the issues. And, again, FAPE implementation, FAPE
12 placement, LRE, nursing, Child Find for '17. So,
13 again, as I've said as we've been talking to our
14 guys, you know, you really do need to be thinking,
15 you need to read Andrew, you need to understand
16 that, and you need to just be thinking about those
17 issues.

18 MS. HUDGENS: You gave me a perfect
19 lead-in. On the Supreme Court decision for
20 Andrew, as you may or may not know, it challenged
21 the FAPE standards for progress for progress sake,
22 that the FAPE standard that we've been operating
23 under is that any progress that a student with a
24 disability is able to achieve meets the
25 requirement for the free appropriate public

1 education.

2 So this Supreme Court decision
3 challenged the notion that progress for progress
4 sake may not actually be appropriate, and so what
5 that then has increased awareness of is that each
6 child has a unique opportunity to show progress.
7 And so that child's IEP has to be appropriately
8 calculated based on that child's unique
9 circumstances so the measure of progress is based
10 on what the child is able to accomplish, should
11 reasonably be able to accomplish over the life
12 span of an IEP and if it is appropriately
13 calculated to do so.

14 So just this week, the Office of
15 Special Education Programs put out a frequently
16 asked questions relative to the Andrew case and
17 what that means because we're all across the
18 states wrestling with how should we appropriately
19 raise that bar, how can we measure that, what kind
20 of support can be put in place to document unique
21 circumstances for children and how we are progress
22 monitoring their progress.

23 And we will be filing that in our
24 memos that are on our state website because I'm
25 going to put an accompanying memo with it to put

1 it out to the field, but I'll ask that that gets
2 pushed out to you-all as well. It is an area I
3 think most parents are interested in and that you
4 may get questions about in your various roles.

5 MR. HUSSEY: You can see the outcomes
6 here. Two-day hearing with pro se parent. Again,
7 it doesn't really say there what happened, but as
8 you go down, you can see this one closed after the
9 parents' piece and now in federal court. Found in
10 favor of the district, no appeal. [Inaudible]
11 district reversed on appeal and now in federal
12 court. So, again, you can just get a sense of how
13 these things are turning out.

14 Parents do not have to have an
15 automatic right to an independent educational
16 evaluation. She just talked about that one. I
17 mean, basically, there has to be a reason to do
18 it, and pretty much, you have to have seen the
19 evaluation done by the district. You have to be
20 able to disagree with that evaluation, show that
21 there is concern or issues there, and then ask for
22 that independent evaluation, and even then
23 districts do have some room to move inside of that
24 to be able to stipulate that what they did was
25 appropriate.

1 So, again, it doesn't happen all the
2 time. It is not an automatic right, but most of
3 the time, if a district truly feels that -- you
4 know, if a parent has those concerns, at least for
5 me, we went ahead and did them. It is just a lot
6 simpler way to respond. Yeah?

7 MS. VLASATY: Can I add something on
8 that too? One of the things we recently found out
9 too in Wake County is -- and on this, you are
10 granted the opportunity to have an independent --
11 the IEE. Wake County actually has to have a
12 contract with the independent evaluator. So
13 unless you can find someone who's willing to sign
14 that contract with the County, you have to pay for
15 it.

16 MR. HUSSEY: Huh. I'll let you go on
17 that one.

18 MS. HUDGENS: So part of that
19 difficulty is that the LEA has to be able to have
20 them approved in their purchasing system so they
21 can actually pay for it. That's a side thing.
22 That shouldn't be prohibitive, though. The other
23 piece that is an underlying piece to that
24 situation is that the LEA is prohibited to provide
25 some structure around what types of IEEs are

1 granted because it would have to be comparable or
2 appropriate to the educational environment because
3 there are lots of educational evaluations that can
4 be done, but it may not be appropriate to the root
5 cause of what the parent and the LEA is concerned
6 about.

7 And sometimes when you're getting
8 into more specific evaluations, they typically
9 have a clinical approach or response to what they
10 are offering as recommendations, and there are
11 differences between what the school system is
12 required to offer for assessing educationally
13 relevant information and then the clinical piece.

14 So those guidelines are not to
15 prohibit the opportunity to access an IEE, but
16 it's our responsibility as educators to make sure
17 that if you're going to be subjecting your child
18 to an evaluation that it is evaluating and
19 yielding information that is meaningful to the
20 parent and meaningful to the educational process.
21 So there are some guidelines there, but they're
22 not intended to be prohibitive.

23 And so the contracting piece --
24 you've got to figure out how to pay for it through
25 bookkeeping and everything -- is always a fabulous

1 opportunity and sometimes it does involve a
2 contracting situation.

3 MS. VLASATY: Yeah, because this
4 isn't just setting them up in purchasing; it's
5 the---

6 MS. HUDGENS: Sure. Yeah.

7 MS. VLASATY: So credentialing --
8 it's not even a question of the credentialing;
9 it's just you have to sign a Wake County contract,
10 and if you don't sign, we're not going to do
11 business with you.

12 MS. HUDGENS: Yeah. Those are the
13 fun things that come into play with local policy
14 because they have contracting policies about how
15 they expend their funds, and sometimes that
16 creates unanticipated barriers to moving forward
17 on those items.

18 MS. HUTCHINSON: Obviously, the
19 County would have to ensure there are background
20 checks and credentials and those kinds of things.
21 So sometimes---

22 MS. MEBANE: And you don't want to
23 replicate the testing that's already been done.

24 MS. HUDGENS: Or you invalidate the
25 results, yeah. So to that end, our technical

1 assistance recommendation is you don't start that
2 process when a parent asks you or makes that
3 request of you. You should have a healthy enough
4 repertoire of options to provide parent choice and
5 then be able to secure that evaluation in a timely
6 manner when that request is either made or
7 granted.

8 MR. HUSSEY: In the district that I
9 was in, we had a big list and we basically handed
10 the list over. Parents got a chance to figure out
11 who they wanted to choose, and then we -- and we
12 did have to figure out a way to pay for it, but
13 that was our contract was with them.

14 This one is interesting. A parent
15 removes a child from your district when there is a
16 dispute over FAPE. Continue to meet annually and
17 offer an IEP that is designed to meet the child's
18 unique needs. Basically, the fact that a parent
19 pulls their child from the system doesn't mean
20 that this situation is over, and that's really
21 what this is about, that you've got to continue to
22 try to make sure that you meet that child's needs
23 and that at least annually you're meeting to
24 present an IEP that basically should, based on
25 what you know about that child, meet that child's

1 unique needs.

2 So we have had some interesting
3 things arise in the last little bit of time around
4 situations with kids who are very sick. They're
5 in school, then they're not in school, and they're
6 out, and you've got to keep working. The fact
7 that they're not there doesn't mean they're gone,
8 and they may come back.

9 MS. HUDGENS: And the other kind of
10 subtle point here, this is not talking about
11 routine parent withdrawals from a public school
12 system to go to another public school system.
13 This is when you are fully aware that the parent
14 is leaving because they disagree with the services
15 that you're providing. Because in due process
16 cases, parents can request that you pay for
17 private school placements if that is where they
18 have left to go and seek FAPE at. So this is
19 really around those times where you are fully
20 aware that the parent is leaving you because they
21 don't believe that you can offer their child a
22 free appropriate public education, and so there is
23 a dispute at hand and they are leaving because of
24 that issue.

25 MS. MEBANE: One thing that I've seen

1 now that it's easier for parents to get ABA, that
2 parents are withdrawing the kids from school so
3 that they can get the full -- and really trying to
4 approach the school to do the ABA or let their
5 providers in, and then there's some conflict with
6 insurance companies that the school is not a place
7 where it can be provided. So that's kind of
8 gotten a little hairy.

9 MR. HUSSEY: And that's one that
10 parents should argue against the insurance
11 company's determination that you can't do that
12 because we went and talked to Blue Cross and Blue
13 Shield about that situation relevant to another
14 issue. But what is very clear is that if the
15 licensed individuals within a school are people
16 contracted by the school are there and they're
17 licensed and capable of doing the same thing that
18 you could do across the street in a psychologist's
19 office, then, you know, there is no real reason
20 why they couldn't and shouldn't pay for that.

21 MS. MEBANE: But the parents want
22 their own providers to come to the school, and the
23 school would prefer to train their own individuals
24 and have them be employees.

25 MR. HUSSEY: But if it's the

1 insurance company that's basically saying it---

2 MS. MEBANE: It is.

3 MR. HUSSEY: Then, that's my point,
4 is that the parents and/or district can argue
5 either way about that depending on the
6 circumstances, but it shouldn't be something that
7 because the insurance company said no, that they
8 should let go. That's where I'm going.

9 MS. HUDGENS: Right. And just the
10 companion piece to that is, is that if LEAs are
11 well-aware that the child needs a particular type
12 of service and the IEP team agrees that they need
13 a particular type of service, the LEA can't
14 outsource that to somebody else. They have to
15 provide that service.

16 MS. MEBANE: Exactly.

17 MS. HUDGENS: Exactly. So they
18 either have to contract to do it or make sure that
19 they have the appropriate trained staff on hand.
20 So those kinds of issues get tied up in a human
21 resource management kind of deal because those
22 independent folks, they don't have to answer or
23 comply with anything established in an LEA and
24 they don't have to follow the IEP. We have no --
25 we have no recourse with implementation of a

1 private provider. It gets all hairy in there.

2 MS. MEBANE: Yeah, it does.

3 MR. HUSSEY: And, again, back to the
4 LEAs, the best defense against failure to
5 implement -- a failure to implement claim is to
6 provide and have solid data and to be able --
7 again, she went through progress monitoring over
8 and over again in this slide, talking about the
9 significance of making sure we have solid data and
10 can show the progress.

11 Again, hearing outcomes. I feel like
12 I'm killing you-all with this data here. I'm
13 watching you-all slowly move away from the screen.
14 Again, you know, you-all can read that and see.
15 The federal court issues a complete reversal by
16 the hearing officer. Again, just different cases
17 are up there. You can see how they happened and
18 what has happened. '16 and '17, again, what's
19 going on in the cases. And you-all will have
20 access to this so you-all can look at this till
21 your heart's content, if you want to go back and
22 read them again.

23 MS. HUTCHINSON: I think the first
24 point up there speaks to what Carol Ann said a few
25 minutes ago. Nobody wins. A 28-day hearing.

1 That means a parent is out of work 28 days,
2 worried about child care, stress on the family,
3 not to mention the stress on the LEA in taking
4 teachers out of classrooms and they have other
5 students whose needs are not being met as well as
6 maybe by that teacher they know, and
7 administrators out of the building. There's not
8 one single person coming out of it feeling like
9 it's Christmas Day.

10 MS. HUDGENS: Right. And, you know,
11 parents are assuming some pretty hefty attorney's
12 fees during this time too until a decision is
13 reached.

14 MS. HUTCHINSON: Oh, my goodness.
15 That's 28 workdays so that's into a month and a
16 half.

17 MS. HUDGENS: So not only lost
18 employment but the fees attached with being
19 appropriately represented.

20 MR. HUSSEY: And you potentially have
21 a child in stay put.

22 MS. HUDGENS: Yeah.

23 MS. MEBANE: So given that, you said,
24 Bill, there are a couple of attorneys out there
25 that kind of want to rush on into due process.

1 Have you guys made any attempt to reach out to
2 them and discuss what the advantages would be to
3 doing some of the dispute resolution?

4 MR. HUSSEY: Yes. I won't -- I'll
5 just answer yes to that. We tried very hard to
6 try to make sure that -- so we've had several
7 meetings -- some, you know, instigated by them and
8 some by us -- to really just try to talk through
9 it because there are trends beginning to happen,
10 and again, we're not here to tell anybody how to
11 practice law. We just need to make sure that we,
12 you know, state our opinions and what we think and
13 state our issues.

14 MS. HUDGENS: And Bill mentioned this
15 earlier. We did -- kind of a spinoff of that
16 question is that we did have a collaborative
17 meeting with the Office of Administrative Hearings
18 and parent attorneys and school district attorneys
19 and just some of our staff just to look at the
20 trends -- look at these same data sets, look at
21 the increased number of days of hearings. Why is
22 that happening; what is your experience with this;
23 are there unintended barriers there that are
24 preventing parents from having timely due process,
25 timely outcomes.

1 Because we certainly don't want to
2 have this child involved in a situation where the
3 adults are duking it out and things are not
4 happening for the child. Every day is precious
5 when you're working with a child, any child, but
6 particularly a child with a disability. Yes,
7 ma'am?

8 MS. MOOREFIELD: I'm sorry. I just
9 missed the meaning for the abbreviations for ALJ
10 and SHRO.

11 MS. HUDGENS: I'm sorry. So
12 administrative law judge. They are the entity
13 that will preside over a due process hearing. And
14 SHRO is state hearing review officer.

15 MS. MOOREFIELD: Thank you.

16 MS. HUDGENS: And that is the second
17 tier of the appeal system after the due process.

18 MS. SIMMONS: Bill, are you able to
19 share anything about the nursing hearing outcome?

20 MS. HUDGENS: Yeah. Nursing wasn't
21 written on the IEP and it should have been. I
22 mean it's that simple. I'm sorry -- I'm sorry
23 that it had to go to due process for that, but it
24 did. Because an issue around nursing is whether
25 or not a service can be delegated to someone else,

1 and there are provisions and appropriate things
2 that can be delegated with the supervision of a
3 nurse, but if I'm remembering the situation
4 correctly, it was a direct nursing service that
5 should have been on the IEP.

6 There's still a lot of school of
7 thought about a health care plan being separate to
8 the IEP, but that health care plan talks about the
9 same kiddo, the IEP talks about the same kiddo.
10 Those are still going to be the relevant people
11 working with that student. So there were multiple
12 opportunities under that nursing umbrella, but the
13 bottom line is, is nursing services should have
14 been on the IEP.

15 MS. SIMMONS: Okay. Thanks, Carol
16 Ann.

17 MR. HUSSEY: Consultation services
18 from their own private provider, again, to assist
19 in recommendations for the child's [inaudible].
20 It's just basically saying they have their
21 consultants, they have their experts, and you need
22 to have your experts to be able to respond and
23 make sure that you're taking care of what's going
24 on.

25 Again, common issues for due process:

1 placement, desire for less restrictive setting.

2 She just kind of goes through what have been the
3 basis of these issues in the cases.

4 Tip number 12. I thought it was ten
5 so I lied. I'm sorry. Once the IEP team
6 determines placement, make sure the justification
7 statement is strong. And, again, she just went
8 back to say, you know, you've got to be able to
9 defend where you made -- what you made as far as a
10 decision in where you said the child should be
11 placed.

12 And, again, when you looked through
13 there, you saw the number of cases around
14 placement, and those are issues that truly, again,
15 if you don't have substantial data to support why
16 you did what you did and data to support the
17 progress of that child in that setting, that is
18 going to become a very serious issue for you down
19 the road in trying to defend if, in fact, the
20 parent doesn't agree with you on that.

21 And the final tip and we'll be done.
22 Basically, of course, an attorney's going to say
23 don't do it alone. So this makes perfect sense.
24 But, really, what she was trying to say is, just
25 like a pro se parent, don't try to go out there

1 and figure this out by yourself. We have some
2 folks trying to get us to send information out to
3 all the LEAs which goes through all the various
4 cases and case law and help them work through
5 problems so that they understand it.

6 My first response, and I said it to
7 the guy who's trying to sell it to me too, you
8 know, I don't want to make a bunch of lawyers out
9 there. We've got lawyers. They have lawyers.
10 They don't need to be trying to do this by
11 themselves. They don't need to be thinking they
12 understand the law well enough to make decisions
13 about things without conferring with and working
14 with their attorneys. And so basically that's
15 what that was about just like, again, as we
16 mentioned about the pro se.

17 So there it is after an hour and 20
18 minutes, but I was glad---

19 MS. HUDGENS: Are you sure?

20 MR. HUSSEY: Yes. ---I had backup
21 there. She was able to -- I'm going to give you
22 the short answer because to me that's all you
23 really need to know, but she gave you all the
24 different pieces so you have a very thorough
25 understanding of what this process is about and

1 the various issues that you-all had questions
2 about.

3 So any other questions relative to
4 this?

5 **(No audible response.)**

6 MR. HUSSEY: Okay. I'm going to try
7 to be quick with my updates. Basically, I'm going
8 to go through just a couple of things.

9 Funding. We are moving forward.
10 I've described to you-all before that we are
11 trying to get a different funding formula going.
12 I have, since I talked to you-all last, met with
13 some representatives, talked the through the
14 process with them. As a concept, I think they're
15 in agreement with us, and basically, what were
16 saying is that we should -- instead of having a
17 flat rate for all these kids, we need to basically
18 be paying for the services that children get.

19 So we've got three different rates.
20 We've got a rate which pretty much covers what
21 would be your regular classroom setting and that
22 resource pullout, then we've got a rate that
23 basically looks at separate classroom setting, and
24 then a rate that really looks at our most complex
25 kids, so those kids that have basic medical as

1 well as cognitive needs.

2 And without going into a lot of
3 detail, the first rate is pretty much a smaller
4 number, and we're looking at -- pretty much when
5 you look at the resource and the regular classroom
6 children, you're really looking at about 80
7 percent of the population of kids, and so that
8 flat rate there that you would get is for a
9 teacher.

10 And, basically, what we used was a
11 caseload of 40, and I have explained this to you
12 before. Not that we're asking teachers to have a
13 caseload of 40, but we had to find a ratio that
14 would work and would work with the largest
15 districts all the way down to the smallest
16 districts. And so, basically, we used the average
17 cost of a teacher and then divided that by the
18 caseload and came up with the number.

19 When we looked at the second group,
20 the separate classroom, we looked at a teacher and
21 an assistant. We went back again to those -- the
22 caseload there we used is within our -- what we do
23 with procedures, and basically, we looked at a
24 teacher and a teacher assistant. Then the bottom
25 one, we looked a teacher and -- so our most

1 complicated kids -- a teacher and two assistants,
2 and we, again, went to the ratio that we use
3 inside of procedures to look at how we would
4 divide that number.

5 So then we add to that all the other
6 services. So even though you may be in a regular
7 classroom and only getting the smallest amount, if
8 you also have two related services, then we looked
9 at the average cost of what the two related
10 services were going to be, look at that, and
11 worked it out. We looked, you know, at
12 psychological evaluations, what it costs to do an
13 evaluation so we could add all those things to it
14 so that we actually got an actual cost per child.

15 What's interesting is that we really
16 only went up -- even for our largest districts --
17 we did it with Charlotte-Meck and I think they
18 went up \$3 million basically. That sounds like a
19 lot of money till you run a district; three
20 million doesn't go very far. So what I'm saying
21 is that in doing this, everyone got a raise and a
22 raise commensurate to the actual services
23 provided, but it wasn't some astronomical number.

24 And when we've shown it to the folks
25 here -- we showed it to our second-in-command in

1 finance here, and what she said was, "I'm
2 impressed that it's not more." And we really did
3 try to be reasonable and sound in our judgment
4 about how we would look at that. In the most
5 difficult cases, right now the average cost across
6 the state is \$20,000. The average amount of money
7 a district gets for that child is \$10,000. If
8 that child got every single service that that
9 child could get, it would actually equal, I think,
10 \$117,000 that, you know, would be what that one
11 individual kid drew down.

12 We used the year before so the
13 April 1 headcount from the year before. So we are
14 always one year behind, but we are also going to
15 maintain the other things -- risk pool, special
16 state reserve, those other dollars out there that
17 capture those kids that move into your district
18 that weren't on your headcount before who are
19 going to cost you those extra dollars -- to try to
20 supplement and support that.

21 We're really looking at about \$200
22 million in this request. At one time in my life,
23 I would have said you'd never get it. I'm not so
24 sure that we won't. Inside the budget, that's not
25 a lot of money. Give it to me for my retirement,

1 I'd appreciate it, but it's not a lot of money.

2 And so we are going to ask for the full thing.

3 Now the other part you need to
4 know -- and I've told you these numbers a thousand
5 times so you're probably tired of hearing them,
6 but had we gotten what we were supposed to get in
7 '93 when we went with that 1.9 and supposedly
8 going to 2.3, we would be at a billion plus -- a
9 billion one plus now. That's how much money.
10 We're actually bringing down 725 million. So
11 there's a \$400 million difference really between
12 where we are -- we are and where we should be.

13 And so we're really kind of splitting
14 it down the middle saying hey, we're asking for
15 about 200 million here, but you know, had we
16 gotten what you said we were going to get a long
17 time ago -- that's not an argument that will go
18 very far over there, but if anyone asks, then, you
19 know, we do have a rationale, again, about why we
20 are where we are and what we're asking for.

21 MS. HUTCHINSON: So that's 20 years
22 of not getting that money. So that's---

23 MR. HUSSEY: Yes. Yes. So there's a
24 whole lot more than just 400 million that we're
25 not getting, right. Yeah, that would get me even

1 less distance if I started to talk about the
2 cumulative effect of what you didn't do with the
3 legislature. But we are going to be moving that
4 forward. I've got support inside the building
5 here now. I had to gain that support, but we do
6 have that now.

7 So we've got support here, and we do
8 have some people over there who are very
9 interested, who are also trying to retire, who I
10 hope want to go out with a big ole feather in
11 their cap. So we're going to work -- we're going
12 to work all our angles the best we can and see
13 what we can do. And so the short session starts
14 in late spring. We will start our conversations
15 with them in the meantime and try to move that
16 forward.

17 Free care. So I'm back to Medicaid
18 again. I know you-all get tired of hearing me
19 talk about it, but it's, again, another \$80
20 million that we could potentially have access to.
21 We are in the last throes of developing our own
22 free care plan that we want to present to DMA,
23 which is Division of Medical Assistance. If we
24 keep waiting for them to come up with one, we
25 won't get one. So we're going to give them ours

1 and let them work backwards through that process
2 with us. As I said, it would be an additional \$80
3 million. A significant sum of that 80 million
4 [inaudible] would be for regular education kids
5 who are Medicaid-eligible who are not special ed
6 kids.

7 And so there's -- that has different
8 impacts on different funding streams coming from
9 Medicaid. There's MAC, which is the Medicaid
10 administrative cost, which every superintendent
11 gets -- in a district where they bill Medicaid,
12 they get a lump sum of money to put into their
13 general fund. This would increase not a lot but
14 some there.

15 Also, there's something called cost
16 reporting, which is basically reconciliation
17 between what the actual costs were for the service
18 and what -- so what we billed for, for the service
19 and what the actual costs were, so reconciling the
20 difference between those two things. That's
21 considerable money, and so the regular ed side
22 would get -- though they wouldn't get a lot
23 necessarily in the MAC, they would get those
24 additional dollars in the cost reporting because
25 we would have to differentiate out what was

1 special ed and what was regular ed because the
2 State Auditor two years or three years ago said
3 all cost reporting money goes directly to special
4 ed because right now that's all money that we
5 generate through our billing processes for special
6 ed.

7 But that would differentiate -- we
8 would have to differentiate those dollars and
9 separate them out, which is a very positive piece
10 for the regular ed side. We're also looking very
11 hard to try to bring charter schools in at least
12 under the special ed continuum so that they can
13 bill for Medicaid as well.

14 The last thing is ECATS. I'll
15 never -- it's kind of like getting robbed. I'd
16 almost -- I'm almost willing for something to
17 happen so this thing is over. It's just taken
18 so -- it's taken so long and it's so detailed.
19 It's kind of like a due process hearing in that it
20 creates different emotions on both sides and
21 you're always having to kind of work your way
22 through the middle.

23 But it looks like right now that our
24 pilots will start in February. Each day it seems
25 a later date in February, but it will be February,

1 and that will be for just the IEP and the Medicaid
2 side. MTSS will start in April. The pilots will
3 be about -- the first pilot, the EC side and the
4 Medicaid side, will be about two weeks' worth of
5 pushing buttons making sure that it's functional
6 and things work.

7 And then there will be a longer piece
8 extended out to April where we will be doing
9 federal reporting and going through the reporting
10 processes and making sure everything's lined up
11 and working the right way. As well as then in the
12 beginning of April in four districts -- we've got
13 16 on our side. MTSS has 20 on their side. We've
14 taken four of those districts that are in common
15 so that we can see how well the two pieces of the
16 system interface with one other and integrate
17 data. So we'll be doing some movement of data
18 back and forth across to make sure that it works.

19 With the startup being in June --
20 July -- excuse me -- and that's with year-round
21 schools, and the total startup of the IEP and
22 Medicaid in August with MTSS starting one of three
23 rounds in September. They will pick up another
24 group in the wintertime and then another group in
25 the spring, and hopefully, at that point, we'll

1 have all the districts on with MTSS, all the
2 districts on with the EC/Medicaid piece.

3 It's moving. That's all I can tell
4 you. We have another meeting today and I had a
5 meeting about the meeting this morning. We had a
6 meeting yesterday about the meeting this morning.
7 So it's just one constant, you know, process of
8 trying to work through the piece, but we are very
9 excited because what it is going to do is give us
10 data that we've never had before and much more
11 easily accessible data. And, again, you know,
12 we're very excited about where we're going there.

13 I think that's really my big updates.
14 I'll be glad to answer questions. Yeah?

15 MS. SIMMONS: Could you update us on
16 the dark period?

17 MR. HUSSEY: The dark period. I like
18 that name. No one else likes it, but I think it's
19 great. I'm a Star Wars freak too, so I'm waiting
20 for the 15th to show up.

21 But the dark period really is the
22 downtime that both systems -- both Easy IEP, which
23 is presently what -- ECATS will be the evolution
24 of Easy IEP, so PCG -- and CECAS. We have to shut
25 both of those systems down, and the reason for

1 that is that Easy IEP, as I said, there's an
2 evolutionary stage, and so ECATS is not the same
3 thing. It's a more robust version of what was
4 Easy IEP, and so we've got to move the data from
5 Easy IEP into the system there in the ECATS.

6 At the same time, we've got to move
7 four years of historical data from CECAS into the
8 system. The remaining years of CECAS will be put
9 on a different server and will be available to
10 districts by request. But we're going this year
11 plus three years back, so four years total of that
12 data will be available inside the ECATS system.

13 We should have, by tomorrow morning,
14 our first newsletter, monthly newsletter ready to
15 go out, and in that we will actually put the
16 period of time -- the date that we think right now
17 will be the date for the dark period, and that
18 appears to be June 15th. Now lots of people want
19 us to go all the way to the end of June, but we
20 don't have enough time between the end of June and
21 the startup.

22 Now the other part of the problem is
23 Power School closes down in there too. So we've
24 got Power School closed down, we're closed down,
25 and we've got to figure out how we're going to

1 resolve the issue of implementation of IEPs at
2 that particular point in time. The reason we went
3 to the 15th is that's over a week after the
4 majority of every school is out. They should have
5 been able -- what we're saying to them now as
6 often as possible, be ready, be prepared, clean
7 your data, get your IEPs done, get everything in
8 the system as much as you can, clean up your old
9 data because you don't want to switch bad data
10 into the new system.

11 So, you know, those are things -- if
12 systems are working, we should have the majority
13 of those things done, but there will be there our
14 three-year-olds coming up, there will be other
15 children out there that are going to have an IEP
16 that needs to be done. I mean there are just
17 going to be IEPs in the dark period, and we're
18 just going to have to figure out what we do with
19 that as we move forward.

20 We've got some ideas. We've got
21 alternate ideas to putting it on paper. We've
22 got -- you know, do we need to do the whole thing
23 or do part -- you know, do we need to collect the
24 data that we need for federal reporting, what is
25 it that we need to do. All those options are on

1 the table. We haven't quite decided yet what that
2 process will be.

3 But there will be training around
4 what we want to have done once we decide what that
5 final solution is going to be for that period.
6 There will be training in early February for the
7 pilot sites, and then there will be a broader
8 training schedule that we will roll out between
9 the training for the pilot sites and the start of
10 school. Yeah?

11 MS. VLASATY: Are the counties going
12 to be able to modify this IEP form like they have
13 in the past?

14 MR. HUSSEY: No. The one constant in
15 this process is that we're pretty much saying this
16 is the system you have to use. You can go above
17 and beyond the system, but that's really going to
18 be more in the way of reporting and other specific
19 pieces on how you collect data.

20 What we're going to give is a
21 reporting process that's much -- as I said, much
22 better even than what they've got now if you're
23 not a system like Wake who has money to spend to
24 get other things. But relative to what the base
25 Easy IEP is, both from a reporting point of view

1 and function point of view, this is going to be
2 significantly better.

3 MS. VLASATY: So like as a parent, if
4 I moved to any other county, it would be the same
5 IEP form?

6 MR. HUSSEY: Yes.

7 MS. VLASATY: And I wouldn't have to
8 worry about seeing a different IEP form if I lived
9 in different county anymore?

10 MR. HUSSEY: No.

11 MS. HUDGENS: Right. Now to add to
12 that response, LEAs can implement some additional
13 forms if that helps manage other processes
14 effectively as long as it does not compromise
15 federal requirements and as long as it does not
16 replace what the State has as a minimum
17 requirement.

18 MR. HUSSEY: But one nice thing about
19 this is we'll no longer have third parties, so
20 we'll have one system out there. We won't have
21 multiple systems.

22 THE CHAIRPERSON: All right.

23 MR. HUSSEY: It sounds to me like
24 it's an adjournment.

25 THE CHAIRPERSON: Yep. Are there any

1 more questions?

2 (No audible response.)

3 MS. HUDGENS: I do have a few things
4 that I want to mention. I think one of the very
5 most important things that we need to mention is
6 that our own Vicki Simmons was recognized as the
7 Educator of Excellence for Guilford County at our
8 exceptional children's conference this year.

9 And to be recognized as an Educator
10 of Excellence, you had to demonstrate excellence
11 in leadership and advocacy for students with
12 disabilities at your home LEA. And so we're very
13 fortunate that Vicki has been recognized to serve
14 in her county---

15 (Applause.)

16 MS. HUDGENS: The second thing I'd
17 like to mention is that -- how many of you were
18 able to attend the EC conference this year? Our
19 plenary speaker, our guest speaker talked about
20 positive images and positive impact of celebrating
21 those differences that we see in our children, and
22 he gifted our Educators of Excellence with his
23 book.

24 And so what he did, in return, is
25 gifted us enough that I have enough available for

1 all of you today. So I have it back there for
2 each of you to thank you for what you do for us
3 and to pay it forward in the gift that he gifted
4 us and the EOE's. So if you'll see me in the back,
5 I have a copy for each of you.

6 And then the last thing that I'd like
7 to offer is that---

8 MR. HUSSEY: Wait a minute. Are you
9 going to spend any more of our money?

10 MS. HUDGENS: Bye, Bill. No. The
11 last thing that I'd like to offer is that we were
12 hoping to queue up our website where all the due
13 process petitions and hearing decisions are
14 posted. So if you would like to look further on
15 the items such as the nursing issue and so forth,
16 I was going to show that link where it's posted.

17 Sometimes when those decisions are
18 rendered, there's little bit of a lag from when we
19 post it because we have to redact personally
20 identifiable information and make sure that it is
21 a legible, easy-to-access copy online. I'll
22 include the link to that when I send you the
23 Andrew Q&A, if that's okay, and that gives you
24 access to our state reports that we summarized
25 through Bill's presentation and those actual

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outcomes from due process -- due process hearings.
And that is all I have.

THE CHAIRPERSON: All right. Being
as we have nothing else on the agenda, do I hear a
motion to adjourn?

MS. DANIELS-HALL: I make a motion
that we adjourn.

MS. PHILLIPS: Second.

(At 3:34 p.m., the quarterly meeting
was adjourned.)

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CERTIFICATE OF REPORTER

I, REBECCA P. SCOTT, State-Certified
Verbatim Reporter, do hereby certify:

That said proceeding was reported by
me and the foregoing pages, numbered 4 through
216, are a true record of the proceeding to the
best of my knowledge and belief;

That I am neither related to nor
employed by any of the parties or counsel employed
by the parties hereto, nor interested directly or
indirectly in the matter in controversy, and am
not financially or otherwise interested in the
outcome of the action.

Certified this 1st day of February,
2018.



Rebecca P. Scott