

January 4, 2007

Dear Professors Odden and Picus and Mr. Olchefske:

I am writing in response to the January 2nd public announcement of your engagement by the New Jersey Department of Education (NJDOE) to review and comment on its recently-disseminated *Report on the Cost of Education*.

This report represents NJDOE's summary account of an education cost study undertaken by the agency in early 2003.

It is my understanding that you have been asked to submit comments on the report by January 19, 2007, barely more than two weeks from now. In the interests of time, I am transmitting this letter by email.

The Department's press release about your engagement concluded with a quote from Commissioner Lucille Davy: "We want to make the process of developing a school funding formula as transparent as possible and solicit as much public opinion as possible." I believe that Commissioner Davy's sentiment should apply to your work, as well as to the rest of the process. In that spirit, I want to urge you to consider several recommendations:

1. Given the complex legal, research and policy issues implicated by the cost study, and the political context from which it emerged, I urge you to seek more time from NJDOE so that your effort will be worthy of the expertise you bring to it. Quite frankly, 17 days is insufficient to allow for a thorough review of the Department's work.
2. Because of NJDOE's failure to publicly release any information about the 2003 cost study for more than three years, the Education Law Center (ELC) instituted legal action in July 2006 under New Jersey's Open Public Records Act. As a result of that lawsuit, ELC has obtained over 18,000 pages of contemporaneous memoranda, data and other material generated during the cost study, which were not released to the public along with the Department's recent summary report. A proper review and understanding of the 2003 education cost study require a thorough examination of all of these source materials, and not simply a summary report written and issued almost four years after the work was performed. Accordingly, I urge that you request the Department to make all of these materials available, in unredacted form, for your review, and that you consult with ELC to ensure you have all of the requisite cost study documents.
3. I also strongly recommend that you confer with at least a representative group of stakeholders, education advocates and community leaders in the course of your review, including stakeholders who participated in the only "professional" panel assembled by the Department for its cost study in January 2003. In my judgment, you simply won't be able to review and evaluate the Department's costing-out effort effectively without receiving input from those who have been deeply engaged in the judicial, legislative and public debates and decisions about school funding over the years and currently. As someone who has been involved in the effort to reform New Jersey's school funding system for over 35 years, I am ready to offer my services in organizing face-to-face meetings or, if need be, conference calls.
4. You should be certain to review carefully the written statements submitted to NJDOE in connection with its December 18, 2006 hearings on the report. Attached to this letter

are a number of the more substantive statements to get you started. Obviously, you should listen to the hearing webcast. It will provide you with powerful evidence of the extent to which a wide spectrum of education, advocacy and civic groups, and several prominent state legislators, have identified major problems with the Department's 2003 cost study and the process by which it was created. Both are a far cry from best-practices costing-out efforts, including a number in which I know that Professors Picus and Odden have been and are involved.

5. Finally, you should carefully review testimony presented to the Joint Legislative Committee on Public School Funding Reform during its hearings, especially the testimony of John Augenblick and John Yinger regarding costing-out studies. The Augenblick testimony makes clear that New Jersey's effort differed substantially from the usual Augenblick & Palaich (A&P) costing-out study because of the degree to which NJDOE controlled many aspects of the process and kept the results under wraps for almost four years. This is the antithesis of the open and transparent processes that characterize the best costing-out studies, whether done by A&P or others. Ironically, the Pennsylvania contract recently awarded to A&P provides for the type of cost study that, if adapted to meet New Jersey's constitutional requirements, would be far more likely to lead to an appropriate school funding formula than NJDOE's inadequate approach.

We have the opportunity in New Jersey to create an excellent new school funding system that responds to constitutional imperatives as well as the needs of our diverse student population. Such an opportunity doesn't arise frequently and we must seize it. You are in an important position to help make that happen.

I do not believe that the Department's *Report on the Cost of Education* moves us in a productive direction, and that the better course is for us to start over with a costing-out study that draws on the country's best experts and provides them with the independence, time and resources to produce an outstanding study. As you will see, that view is widely held throughout New Jersey, in suburbs and cities, and in wealthier and poorer communities alike.

Since I am familiar with the work that Professors Picus and Odden have done in states such as Arkansas, Kentucky, Wisconsin and Wyoming, and with their gold-standard books on school funding and costing-out of education, I cannot believe that as a trio of experts you will find NJDOE's study to be adequate let alone exemplary, but that will have to await your report.

I look forward to hearing from you. Be assured that I will do whatever I can to facilitate your work.

Sincerely,
Paul L. Tractenberg

Attachments

cc:

Commissioner Lucille Davy
Heather Howard, Governor's Director of Policy and Planning
Robert Gilson, Director, Division of Law, Office of Attorney General
Kenneth Zimmerman, Governor's Counsel
Members, Joint Legislative Committee on Public School Funding Reform
Assemblyman Craig Stanley, Chair, Assembly Education Committee and Co-Chair, Joint Committee on the Public Schools
David Sciarra, Esq., Executive Director, Education Law Center

Richard E. Shapiro, Esq., Special Counsel to Abbott Districts