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**TESTIMONY OF EDUCATION LAW CENTER ON  
SENATE BILL NO. 2319 AND  
IMPROVING NJ'S CHARTER SCHOOL LAW**

**OCTOBER 16, 2014**

Thank you, Senator Ruiz and members of the Senate Education Committee, for the opportunity to speak on behalf of Education Law Center (ELC). ELC advocates for a thorough and efficient education for New Jersey's 1.1 million public school children, particularly students at-risk, in high poverty schools and districts, English language learners, and students with disabilities.

The State's implementation of the charter school program has changed significantly since the charter law was enacted almost two decades ago. Under Governor Chris Christie's administration, these changes have been dramatic and often have occurred out of public and legislative view. It is imperative, therefore, that this Committee, as an initial step, develop a full, public record of those changes to inform any proposed legislation to address the on-the-ground impacts of the charter program on the right to a thorough and efficient education guaranteed to all of our students under the NJ Constitution.

The touchstone of this Committee's review of the charter school law must be to ensure that any additional, new charter schools are only authorized after rigorous and comprehensive State review, including an assessment of the impacts on student segregation and funding loss in the districts of residence. Your review must also examine whether State ongoing monitoring of approved charter schools ensures these schools are operating equitably and effectively and are advancing a thorough and efficient education for all students, district and charter alike.

First, let's face the facts: over the last several years, the Christie administration has implemented the charter school program not as a laboratory for innovation to assist district schools or to provide alternatives for students at-risk of academic failure, as the Legislature intended in 1995. Instead, the Administration has encouraged and allowed charter schools to serve as replacements for district schools and, if current trends continue in some districts, replace the district itself as the primary provider of public education to children. In Newark, we estimate that charters have already been authorized to serve upwards of 40% or more of all district students. Recent approvals in Camden authorize three national charter chains – Mastery, Uncommon and KIPP – to open 16 schools enrolling 9,000 students, over 70% of the district's total student enrollment.

Further, as Senator Ruiz knows all too well from Newark, this unplanned charter growth occurs largely out of public view, triggering the closing of neighborhood schools and exacerbating student segregation and a loss of funding for students in district schools. In short, the Commissioner and Department of Education (DOE) have, mostly behind closed doors, allowed the explosive growth of charter schools in Newark, ignoring the State's overarching

constitutional responsibility to ensure a through and efficient education for all Newark students, especially those who are academically at-risk, English language learners and students with disabilities.

In fact, just last week, in a legal argument before the Appellate Court, the Attorney General revealed for the first time that New Jersey has many more operating charter schools than the 87 charters in the official DOE count. Much to our surprise, the Attorney General told the Judges that 23 of the 87 approved charters are currently operating not just one school, but one or many more charter schools. A few have been allowed by DOE to open entire networks of schools for the apparent purpose of replacing, not enhancing, district schools, with the ironic effect of limiting public school choice for students.

We have attempted to figure out the number of charter schools in operation, and have discovered there may be as many as 40-some additional schools, bringing the statewide total to 130 or more.

Quite frankly and shockingly, I can't tell you here today exactly how many charter schools are now open in New Jersey districts. The DOE does not make this information public. All we know is that the DOE lists 87 charters on its website, a number the Attorney General concedes is not accurate. We also don't know how the DOE approved these additional charter schools, and whether they were authorized in compliance with existing law. It does appear, however, that at least some of the schools have been allowed to open in violation of the current law. In particular, no notice was given to legislators and local officials about many of these new schools, as is required under existing law. Because local and state officials – and most importantly, parents and students – have been deprived of notice of these proposed new charters – an important aspect of the original charter approval process – there is no assurance that the fiscal, segregative and other impacts on district schools and students was even considered by the DOE.

The bottom line is this: the Christie Administration has fundamentally altered the charter program without legislative authorization. The DOE no longer authorizes individual charter schools, but is authorizing charter operators – mostly national, out-of-state organizations – that are then free to open not just one, but two, three or even networks of charter schools in one district or multiple districts. The result has been a significant increase in the number of students attending charter schools in certain areas of the state, but here again, it's impossible to know the extent of current and previously authorized charter enrollments because the DOE does not make this crucial information public.

This Committee must get a full handle on this situation before even contemplating any changes to the charter law. ELC calls on this Committee, along with your counterparts in the Assembly, to conduct a joint investigation into the status of implementation of the charter program. This investigation must include a full accounting of the number of individual charter schools in operation in each district and information about the operators of those schools; the levels of enrollment approved by the DOE; the extent to which existing charters can open new schools to accommodate already approved enrollments, the process by which charter operators have been allowed to open new schools or expand existing schools; and the impact of this growth in charter schools and enrollments on key factors, including the loss of essential programs, staff and services in the budgets of district schools and the segregation and isolation of students by race,

socio-economic status, English language barriers, disability, and other at-risk factors in resource-depleted district schools.

To conduct this investigation, we recommend the Committee not only obtain information from the DOE, but hear from independent researchers, educators, parents and stakeholders, from both the districts and charter schools. We strongly recommend public hearings, and that hearings be held in the State-operated districts of Newark and Camden. Once this comprehensive record is compiled, we will all be in a more informed position to determine what essential changes are needed to ensure the charter law achieves the core objectives of educational equity, opportunity and improved outcomes for all students, whether enrolled in district schools or charters.

We also urge this Committee to put on hold S2319 or any other charter law amendment at this time. Given the revelations by the Attorney General, and the substantial questions regarding the manner in which the charter program has been implemented and altered, it is entirely premature to even consider whether additional entities to authorize even more charters is necessary or appropriate. We simply can't consider whether New Jersey students will benefit from additional authorizers when we don't even know the full extent of what the DOE has already authorized.

Senator Ruiz is aware of ELC's positions on charter law reform, including the need to codify in statute the State's constitutional responsibility to address the increased segregation of student populations and the financial impact of charters on district schools, to improve fiscal accountability and transparency of charter school budgets and expenditures, to prevent profit-making from charter schools, and to allow new charters only if they respond to pressing needs that will enhance student opportunities and options, such as multi-district charters with the mission of serving a racially and socio-economically diverse student body.

But, as we have explained, we simply don't have the information and data necessary for an informed discussion of these and other proposals and about how best to reform and improve our charter program for the benefit of all students, district and charter. We ask this Committee to take the lead in conducting a comprehensive investigation into the substantial and serious questions raised by the State's implementation of the program, especially over the last several years. We stand ready to assist you in undertaking this long overdue and essential task.