

STATEMENT OF EDUCATION LAW CENTER
STATUS OF THE SCHOOL CONSTRUCTION PROGRAM
JOINT COMMITTEE ON THE PUBLIC SCHOOLS

SEPTEMBER 21, 2010

Thank you for the opportunity to discuss the current status of New Jersey's nationally recognized school construction program and to ask for your immediate assistance to ensure our students attend are educated in safe and adequate facilities.

ELC has worked tirelessly over the last decade to establish the school construction program and for the timely, effective and efficient implementation of school facilities projects, particularly in our poorest communities, now referred to as SDA districts. Through 2009, and with the support of the Legislature, we have built over 100 new and renovated schools in SDA districts and provided grants for hundreds of needed projects across the state.

It is no secret that, since Governor Christie took office, the school construction program is in a state of complete atrophy. The Governor has ordered a halt to work on all projects in the Schools Development Corporation's (SDA) 2005 and 2008 capital plans, except those projects already under construction. And tragically for the thousands of children trapped in outmoded, overcrowded, and inadequate schools today, there is no plan to restart these projects. There is no relief in sight, just more inexcusable delay.

I want to make three critical points today.

First, because of the Governor's decision to stop the program, the SDA's construction portfolio has dwindled to a mere seven (7) projects in SDA districts, and two (2) in Regular Operating Districts. Yet, at the same time, the agency has put on indefinite hold 50 or more projects in the pre-development phase, many of which were "shovel ready," or close to it, when abruptly halted. The last available data from SDA on these projects – from 2009 – indicates that over 50 projects have been stopped in 30 SDA districts, some districts with multiple projects on hold.

Even more troubling is that SDA has already invested, at last estimate, over \$236 million to cover an estimated \$345.5 million in predevelopment costs for these projects. In other words, taxpayers have invested almost 2/3 of all the planning, design and other up-front activities to position these projects for actual construction.

Consider the situation in Newark. The district has four (4) projects in the 2008 capital plan stalled by the SDA shut-down – Gladys Hillman Jones, Oliver Street, South Street and Westside High School. The SDA has spent almost \$80 million on site acquisition and designs for the new projects, all of which are desperately needed to relieve overcrowding,

meet educational adequacy standards and provide a safe and healthy learning environment for hundreds of Newark school children.

There is simply no justification for even a new Administration to stop ready projects, and to keep them on hold for 10 months or more. It would be a travesty, not to mention a complete waste of millions in taxpayer dollars, to now scrap these projects, given the level of State investment already made. In addition, every week of delay adds to the overall cost.

Second, while the SDA has stopped designing and building schools, it continues to maintain a full-scale bureaucracy, at the pre-shutdown level. According to the SDA July 2010 financial report, the agency spent nearly \$21 million on employee salaries and benefits, and another \$5 million in administrative overhead during the first 6 months of the current year. Even more alarming, the SDA paid out \$26 million total in staff and overhead to manage a paltry \$149 million in actual school facilities project costs, a total administrative cost that can only be considered astronomical.

Third, not only has construction shut down, the SDA, along with the Department of Education, continues to stall on implementing long overdue rules to directly allow qualified SDA districts to undertake the design and construction of projects under State supervision. In 2007, the Legislature amended the School Facilities Education and Financing Act to authorize delegation to provide a mechanism for local communities to become more engaged in the school construction program, lowering the cost of maintaining the massive SDA bureaucracy in the process. The SDA and DOE were put under a legal mandate to adopt rules to implement this amendment by July 2008. Only recently, after ELC filed suit against both agencies, has the SDA presented the proposed rules to the public, but the DOE still has not done so. Even worse, the SDA proposed rules would only allow districts to undertake construction of projects, not the design, another clear violation of law.

The bottom line is that the SDA has retreated to its Trenton offices not only to sit idly by while long overdue projects languish, but has also taken no steps to engage the districts in, once and for all, becoming full partners in the construction process, from start to finish.

Finally, unlike in the past, there is no financial impediment that would warrant this complete shutdown. As many of you know, the Legislature, in 2008, took the courageous step of increasing the SDA's bonding authority by \$3.9 billion for the express purpose of moving the now stalled projects forward. Most, if not all, of that bond authorization is there – it only requires the Administration to use it.

I close with this reminder: the Court's orders requiring school facilities improvements in the SDA districts remain in full force and effect, and the Administration has taken no legal action to ask the Court to relax those orders.

But aside from any legal obligation to promptly move the stalled projects forward, our school children, communities and our State's economy demand that we put an end to any further delay – now.