THE BROOKINGS INSTITUTION

BUILDING ON IDEA:
POLICY SOLUTIONS TO IMPROVE U.S. SPECIAL EDUCATION

Washington, D.C.
Tuesday, January 18, 2011

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P R O C E E D I N G S

MR. WEST: Good morning. I'm Darrell West. I'm vice president of Governance Studies and the director of the Center for Technology Innovation here at the Brookings Institution. I'd like to welcome you to our forum on Policy Solutions to Improve U.S. Special Education. And we especially appreciate each of you braving the weather and coming out this morning. I walked in at 7:00 and the sidewalks and some of the roads still were quite treacherous, so we appreciate your dedication in showing us and helping us think more about this important topic.

The 2004 Individuals with Disabilities Education Act has changed education priorities for special needs students. It has been credited with improving outcomes for students, but criticized for generating bureaucracy and rules and regulations that some believe stand in the way of providing more effective services. So, this morning we're going to talk about what existing policies serve students well, and what policies are in need of change, should Congress combine IDEA with the reauthorization of the Elementary and Secondary Education Act, how should we think about questions of special education access, inclusion, and cost, especially in an era of large government deficits.

Today we have assembled an outstanding set of distinguished leaders to discuss these and other questions. We are pleased to welcome Alexa Posny. She is the assistant secretary for Special Education and Rehabilitative Services at the U.S. Department of Education. In this position she plays a pivotal role in policy and management issues affecting special education. She works to improve education at the state and local levels and oversees the distribution of financial assistance to local education agencies. Prior to that position she served as Commissioner of Education for

the state of Kansas.

Doug Fuchs is the Nicholas Hobbs Chair in Special Education and Human Development at the Peabody College of Vanderbilt University. He co-directs the Kennedy Center Reading Clinic. He has been principal investigator on 35 federally sponsored research grants. His research focuses on pre-referral interventions, peer-assisted learning strategies, curriculum-based measurement, and methods of integrating studies with disabilities into mainstream settings. He is the author or co-author of more than 200 articles in scientific journals and has won best paper awards for several of these publications. He also is a past editor of the *Journal of Special Education*.

Lon Jacobs is general counsel at the News Corporation. He joined the News Corporation in 1996 as senior vice president and deputy group general counsel. He is the parent of a 14-year-old daughter with Downs Syndrome and has written in the *Wall Street Journal* about a parent's perspective on disability.

Marilyn Friend is a professor of education at the University of North Carolina at Greensboro and the author of a book entitled, *Special Education: Contemporary Perspectives for School Professionals*, which is now in its third edition. She is the president-elect of the Council for Exceptional Children. She has made a number of presentations in the United States, Canada, Europe, and Asia. She focuses on collaboration, inclusive school practices, interpersonal communications, and teambuilding, and she also has written more than 45 articles on various topics related to education.

So, we're going to start with Alexa. She will provide her ideas on special education and then we will hear short presentations form Doug, Lon, and Marilyn. Alexa, thank you.

MS. POSNY: Well, good morning, and thank you very much for inviting me to join today's forum.

I'm really eager to contribute to this conversation but I'm also looking forward to hearing from my colleagues as well, especially as we face not only the reauthorization of the Elementary and Secondary Education Act, otherwise known as ESEA, but also with the reauthorization of IDEA. And I want to focus my comments briefly on the noun and verb versions of progress.

President Kennedy once said, "Our progress as a nation can be no swifter than our progress in education. The human mind is our fundamental resource." IDEA, as many of you know, celebrated its 35th anniversary in November. That event prompted me to reflect on the great improvements in outcomes of students with disabilities over the last 35 years and the ways in which IDEA programs and requirements supported those improvements. For example, prior to the passage of PL94142 in 1975, 1.75 million children with disabilities were denied access to even an appropriate education and today more than 6.6 million students with disabilities are learning alongside their peers. Ninety-five percent of these 6.6 million kids attend a neighborhood school and almost 60 percent of them spend at least 80 percent of their day within a general education classroom.

The National Assessment of Educational Progress data has shown increased proficiency in reading among 4th grade students with disabilities with scores increasing by 23 points between 2000 and 2009, and this is in comparison to scores for students without disabilities, which increased only 7 points over that same period.

In 2009, 60 percent of students with disabilities graduated with a regular high school diploma, a 17 percentage increase since 1996. The national graduation rate

for all students is 68 percent. Nearly half of students with disabilities who graduate from high school enroll in a postsecondary program. The bottom line, IDEA has resulted in improvements as we come to learn more about how to best educate students with disabilities.

What else has changed? We invested in Part C programs so that we could identify infants and toddlers who needed help long before they started school. NCLB included students with disabilities in the country's accountability system. We allot 1 percent of IDEA's annual expenditures to Part D programs dedicated to research, innovation, effective practices, technical assistance, yet we also must recognize that we still have a long way to go to realize the law's promise.

Graduation and postsecondary enrollment rates are still far too low. Employment rates of adults with disabilities has actually decreased between 1990 and 2005. We know that we're headed down the right path, but how can we shape it so it gets us closer to our goal of educating students with disabilities to the highest standards.

President Obama has said, "If you're walking down the right path and you're willing to keep walking, eventually you'll make progress." So, now what? I posed that question within the Office of Special Education and Rehabilitative Services and externally to constituent groups. Early responses indicate that at more than 12 percent of the overall student population, students with disabilities are truly a part of, not separate from, the diversity of American public schools. As such, the upcoming reauthorization of ESEA must continue to account for the needs of students with disabilities and IDEA programs should provide the extra support to help students with disabilities achieve challenging standards.

So, now what? I'm advocating for greater alignment between ESEA and

IDEA, alignment will force us to consider how we can break down parallel systems such as highly effective teachers, to align our definitions, to use one data collection system, to begin the debate on eligibility versus needs, to focus on outcomes versus process, to emphasize prevention and intervention versus identification, and concentrate on results rather than enforcement.

We want to make sure that ESEA and IDEA programs and other department initiatives are coordinated. For example, our teach.gov initiative, which attracts new talent to teaching, especially in high need areas like special education, and our Part D programs that train special education teachers and related services personnel, need to work together. We need increased coordination between school level programs, early intervention and supports, universal design for learning, response to intervention. These are also musts and should be within ESEA.

Early feedback shows tremendous support for principles of universal design and instructional and assessment materials and support for positive school-wide multi-tiered systems of support for all students. Alignment does not mean the merger of IDEA and ESEA, nor does it represent any intention whatsoever to diminish or weaken IDEA as a unique, free-standing, and important civil rights statute. The reauthorizations of ESEA and IDEA will create an opportunity for a paradigm shift that will allow us to define one educational system while also refining our policies and practices to make certain that we educate all students to the highest possible standards. Together, these statutes will work to fulfill the promise of high achievement for all students and will help us to progress towards the President's goal, that by 2020 America once again will lead the world in college completion, and the Secretary's goal that all students graduate from high school prepared for college and a career regardless of gender, class, race, or ability

status.

Henry Ford once said, “Coming together is the beginning. Keeping together is progress. Working together is success.” I hope that we can all work together to reauthorize ESEA and IDEA, making common sense changes that lead to the success of all American students, especially those with disabilities.

Thank you very much.

MR. WEST: Thank you, Alexa. Our next speaker is Doug Fuchs of Vanderbilt University.

MR. FUCHS: Thank you, Darrell. I, too, am very pleased to be here to have an opportunity to speak. Alexa, I very much enjoyed your talk, thought it was wonderful, and I agree with much of it. As you’ll see, I have a slightly different take on at least one aspect of it. And I didn’t know what Alexa was going to say.

So, in its promotional materials for this event Brookings says in part that “IDEA has been credited with gradually improving outcomes for students.” Brookings isn’t alone in asserting that outcomes are improving for students with disabilities. Government agencies, professional organizations, private foundations, advocacy groups, and academics make this claim as well. Yet, if we define outcomes in terms of academic performance or academic achievement, then I want to suggest to you that there are no persuasive data to back such a belief.

What basis do I have for saying this in five minutes? Let me turn to three well-known databases: the National Longitudinal Transition Study, or NLTS; the state’s annual performance reports or report cards; and the National Assessment of Educational Progress, or the NAEP.

Let’s first talk about the NLTS, National Longitudinal Transition Study.

Mary Wagner and her associates at SRI compared the nationally representative high school -- compared nationally representative high school students with LD from the 1980s to same age students with LD in 2001/2002. Wagner and colleagues found a greater percentage of the nationally representative 2001/2002 cohort taking more challenging academic courses and taking them more frequently in integrated or mainstream educational settings.

Further, whereas only 2 percent of the high-schoolers in the mid-1980s earned “mostly A’s” and only 56 percent graduated, 19 percent, in 2001/2002 had mostly A’s and 74 percent graduated. However, the researchers also found that in 2001/2002, only 11 percent of the national sample of students with LD was at or above grade level in reading, 23 percent were between 1 and 2.9 grade levels behind, 45 percent were 3 to 4.9 grade levels behind, and 21 percent were 5 or more grade levels behind, 21 percent of the national sample 5 or more grade levels behind.

The students’ math achievement, according to Wagner *et al.*, was equally abysmal. What do the states performance and proficiency data say about students with disabilities’ academic performance? According to an analysis by Candace Cortiella for the National Center for Learning Disabilities, there is little improvement to report. Among schools failing to achieve AYP because of the academic performance of one subgroup, it’s the students with disabilities subgroup that’s most frequently identified. Keep in mind that only 30 percent of schools are required to make AYP for students with disabilities because of issues connected to group size.

Among the databases, only the NAEP may be seen as encouraging since it has reported improvements for students with disabilities in reading and math, but there are two important caveats to keep in mind here. First, students with 504 plans are

included in the NAEP sample. Second, exclusion rates for students with disabilities selected for the sample are very high, 28 percent nationally, and as high as 60 percent for some states.

The NAEP has gone on record as saying that the students with disabilities' performance data cannot be generalized to students with disabilities nationwide. Across these databases there is no -- as I see it -- there is no clear, strong message that the academic performance of students with disabilities is improving as a function of IDEA, NCLB, or whatever. The data generally indicate that most students with disabilities are continuing to perform poorly and I believe people familiar with these databases would agree with this interpretation.

Two last points. There are, of course, other ways to define outcomes for students with disabilities besides academic performance, and some of these are very important such as accessing mainstream settings and curricula. Finally, some blame the Office of Special Ed Programs for students with disabilities' generally poor academic performance. They say that OSEP spends too much effort on compliance requirements rather than insisting on standards for academic performance. I believe the cause of students with disabilities' unacceptable academic performance is deeper and more pervasive. Special education has lost its way in this country. It has lost its capacity to provide intensive and expert instruction to our most academically vulnerable children and youth. There needs to be national recognition of this fact and a collective rethinking of special education and the role of special educators in our nation's schools. Until these things happen, there will be no important academic improvement for students with disabilities. Thank you.

MR. WEST: Okay. Thank you, Doug. Our next speaker is Lon Jacobs

of the News Corporation.

MR. JACOBS: Thank you. I'm also delighted to be here and I think I come out somewhere between these two. Not quite as pessimistic as you.

What I thought I would focus on, one of the questions we were asked was what policies at the IDEA are in need of change or at least revisiting, and I want to focus on the concept of least restricted environment, where the general goal of IDEA is to integrate special ed students into neighborhood schools and mainstream classrooms. I think this is a laudable goal, but I think that it's often unworkable.

I'd like to digress just a little bit for a moment. I think we can all agree that the biggest problem that we have in special ed education is the attitudes of so many people in mainstream America. Our children are often considered not quite human, that they're not deserving of the attention that they're giving, that the money is better spent on other students, and it's these attitudes that have to change before we'll ever fix the special education system.

So, how do you do that? Obviously, the notion of a least restricted environment, the notion of inclusion, introducing these special kids to the mainstream is important. They need to see -- you need to humanize these children, you need to make them realize that we're all part of human civilization and one of the schools that I work with I think has come up with a terrific approach. It's in the elementary school level, and what they focus on is not just inclusion of special needs kids, but also inclusion with respect to diversity. And so what you have in these classes is you have one-third special ed students, you have one-third students who come from underserved populations, and then you have one-third typical students. And what this does is provide a terrific setting for all three groups of children, and they grow up together, they learn to support each

other, and it's the underserved children who gain as much as anyone. They become the leaders of this classroom. They learn that they can achieve academically along with their typical -- with their wealthier classmates, and they learn to accept differences in other people. And I think that this is a model that has real promise.

Unfortunately, I think that when you get to the high school level, inclusion doesn't work and I think there has to be a different focus. What happens -- if you have special needs -- my experience has been that if you have special needs students in a mainstream high school, they become marginalized, bullied, and it becomes a very difficult situation. You -- they're on the fringes of their own high school experience.

If you have a high school that is focusing on special needs children, they are now part of their high school experience: they're on the sports team, they're on the high school newspaper, they go to the prom.

Now, you will hear stories about how there was a child with autism who played on the basketball team and there was a girl with Downs Syndrome who was the homecoming queen. These are beautiful stories, but they are more random acts of kindness than the norm, and so I think in this situation the least restrictive environment really isn't trying to push these kids into a mainstream classroom.

I think that inclusion doesn't work often when you have kids who are otherwise typical but have learning differences because, again, these are kids who present typically and who you would expect to go to a typical high school, but again are marginalized because most of these LD kids also the LD has a tie-in to social issues, and again they become marginalized. And it's even more painful to a certain extent because they're much more aware of how marginalized they are.

There are schools now that provide a high school setting just for LD kids,

and again it works because you are able to become part of your classroom, part of your high school, and you're able to group children with similar learning differences together so that you can focus on teaching them how they need to learn rather than trying to force-feed them the information, giving them extra time, giving them extra tutors. It's more important to give them the tools to learn so that they can succeed. Again, this is my experience. There is a high school that focuses on this in New York City where virtually every one of these high school students graduates from high school and goes on to college, and that's those who aren't mainstream prior to that because they've learned the tools they need to succeed in a mainstream setting.

And I know that this is the very hot topic, it was just in the *New York Times* yesterday where New Jersey announced that it is proposing to start county-wide autism schools that are just for children with autism. And on the one hand, you have somebody -- you would think that I would be the person saying, well, that's perfect, because what you need to do is have these children in a setting where you have the best teachers who know how to teach autism. And then you have the other people who are up in arms about this who are saying this doesn't work, you need to mainstream these children. But I don't think that it's either/or. There are ways where you can -- students fit into different buckets and autism is such a broad spectrum, so you have some children with autism who should be mainstreamed. You have some children with autism who should be in an LD school, all the way down to the most severe children with the most severe forms of autism cannot learn in a different setting. So you need to be able to take a step back and say that the least restricted environment is a laudable goal, but it is not the goal that works for all conditions.

And as IDEA itself states, education here is the means, it's not the goal.

What we want to do is provide these students with the ability to become a part of their community, to have a long and productive life in the society. And so in order to do this, I think, what we need is to broaden the concept of LRE, find the programs that work, and find a way where they become scalable and where you can incorporate them into the public school system.

Thank you.

MR. WEST: Okay. Thank you, Lon. Our last speaker is Marilyn Friend of the University of North Carolina at Greensboro.

MS. FRIEND: Good morning. I don't know if last is the best position or the worst position to be in because there may be some interlocking friends, a few differences, too.

We were asked to address two questions today that are related and I'd like to speak to the second question rather than the first in order to get at the first, that is, I'd like to address a little bit about the combining of ESEA and IDEA in order to get at some of the critical issues that we need to address.

While at first glance the notion of blending these laws has an incredible intuitive appeal, I mean, it's the ultimate goal, you know, the total seamless education and full integration of students with disabilities. I think it's a lot more complicated than that. And I have to tell you that when the concept was -- when I first heard about it, what really came to mind was something -- it's a quote, and it's going to date me, and if you know it, it's also going to date you, but I can't resist. Some of you are too young for this. It's from *The Profit* by Khalil Gibran. Do you remember *The Profit*? Here's the quote, "Sing and dance together and be joyous, but let each one also be alone, even as the lute has separate strings that are alone but quiver in harmony." I think that ESEA and IDEA

are shared music. However, I think each one also needs to stand alone because the laws are unique along several dimensions, and it is by having each one that we get the synergy and harmony that we need.

For example, ESEA affects the education of nearly all students in this country by establishing items like rigorous achievement standards, accountability systems that are very important, while IDEA is in a different domain. It's intended to guide the education of a small group of individual eligible students whose needs are so specialized that what is good for the whole is not necessarily good for them without some significant adjustment.

IDEA also includes foundational protections that are critical, the procedural safeguards that ensure that decisions are made by teams that include families, following clear procedures with processes in place in order to resolve disagreements. In another example, ESEA mandates the scrutiny of academic achievement and that's for groups of students, and admittedly, for subgroups of students, but IDEA has a different focus. It looks at each eligible student, requires close monitoring of their progress, requires individual, not group, measures, and requires changes based on those individual measures. Further, IDEA has as a focus much more than academic achievement in areas that are often vital to students with disabilities, areas such as the social and emotional and behavior domains.

It seems that instead of debating one law or two, our time really is best spent looking more carefully at some of the alignment issues, as Alexa mentioned, and really focusing on the critical issues that data, as Doug mentioned -- I'll get to you eventually -- and experience inform us. These are issues that we should tackle, just a few out of many. We really must continue to focus on the quality of instruction delivered

by both special educators and general educators. We need to increase the focus on universal design for learning and ensure access to and appropriate use of technology. We have to ensure -- and I don't think anyone has mentioned this -- that educational leaders, especially principals, have adequate knowledge and sufficient skills to translate federal and state policy into sustainable practices in every school in this country and hold them accountable for doing so.

We should look at where to place response for intervention or whatever that morphs into being, because if it is truly -- rather than what was originally intended, a means for identifying students as having learning disabilities, if it is rather a means to prevent inappropriate identification of many students and ensure they receive early academic interventions, then it really is -- it's a practice that really affects all students, not just the very narrow few.

We really need to address and respond much more effectively to the needs of students who are gifted and talented, and it seems as though we've largely been ignoring them. We also need to get equitable systems in place to make certain that all teachers, those in special and gifted education, as well as those in other fields, have adequate preparation. That's been alluded to, that we have to be sure all teachers know how to do their jobs, that they have the supports in place so that they can grow into those jobs -- it's a pre-service and an in-service issue -- and then we have to be sure that they are appropriately rewarded for their successes. And then, of course, I'm shocked that we haven't discussed it yet, we really must insist on full funding, appropriate funding, for this legislation to be sure that all the different aspects of it can be addressed in a way that's actually valid, because if we don't have adequate resources, that's not possible.

Those resources need to include the things that you all might be thinking

about, but I also want to mention that I think we need to look at research in new areas as well, especially as we shift the way we deliver services to students with disabilities to new service delivery models to practices such as co-teaching which we really have not systematically investigated.

Finally, and perhaps most importantly, and this, if you know my work, is a bias of mine, I think that we really need to emphasize collaboration as a vehicle through which our essential work can be accomplished. Making sure that collaboration is not just permitted and encouraged, but instead ensuring that it is integrated, required, and accountable, at the federal level, the state level, the regional level, and the local level. The principles of collaboration are well documented. It's a vehicle; it's not the work itself. It is how the work is accomplished. Across fields we know that it is effective. It's effective at the systems level and the individual level. Collaboration doesn't require us to become one or to be the same, and that's an area that I think we have to revisit. Collaboration, in fact, is strengthened when it's based on diverse perspectives that foster a healthy dialogue and lead to novel solutions for complex problems.

You know, an expectation of collaboration holds tremendous promise for ESEA and IDEA. It makes possible, and endurable, the balance between the comprehensive tenets of ESEA that create an exemplary education system, and the individual character of IDEA that preserves the rights of infants, toddlers, children, youth, and young adults with disabilities and other special needs. The laws really can sing and dance together and be joyous while each one is alone.

Thank you.

MR. WEST: Thank you, Marilyn. You know, this already is a great panel because we already have seen some differences and different perspectives on these

topics. I'd like to throw out a couple of questions for our panel, and any of you can jump in.

Doug made this very provocative statement that "special education has lost its way." So, I'd like to ask each of you what you think about that, and then secondly, what would each of you would like to see in the Congressional reauthorization that's coming up?

MR. JACOBS: Well, my experience is focused on New York City and I have to say that Doug is absolutely right, that special education has lost its way in the public schools, certainly. But the other -- the good news in New York is that it has become a focus of RND, if you will, for education. There are so many different models being tried in New York City and as I said earlier in my remarks, some of them really do show promise. One of the hardest things to do -- and Doug was talking about this -- is how do you measure success? That's very difficult for many of these children to find where -- to quantify how much they have succeeded, but I think that what we have that we're right on the precipice of is a new technology that will provide us with the feedback that we need.

There are companies that are providing software and technology where you can -- and this is for typical kids as well as special needs kids -- where you do the assessments and as they're taking the test, you're inputting the data immediately into a system that it's -- sorry to use this jargon -- but it's a continuous feedback loop, so you're continually finding out where are the shortcomings, where is this child not learning. It creates a proposed new curriculum for the next two weeks to try to teach this student how to catch up in reading, for example, and then it continues. Every two weeks you do a new assessment and then you're provided with a new curriculum.

Now, it's in early stages, but -- and it's focused really on K-3 for typical kids, but it's something that shows a lot of promise that we're very excited about.

MS. POSNY: This is where I'm going to go back to the very optimistic side because I don't believe that special ed has lost its way. And, you know, I take a look at it and I go back to 35 years ago when we didn't even include students with special needs in the public school system, and I look -- and I'm going to ratchet you back up to the 1997 reauthorization of IDEA. And why am I going to focus in on that one? Because up until that point what we ensured was access to public education. We did not ensure results. Now, I'm not saying that that's not important and I'm not saying that there weren't results that we saw, but the purpose was to have them in the public school system.

It was only in 1997 for the first time that we even made the mandate that we must assess all students with disabilities. We didn't have to do that. So, when I think about the level of progress that we have seen, I think it's been nothing short of remarkable and I've said that over and over again. Do we still have a ways to go? I couldn't agree more that we still do.

And with the type of program you were describing, when we talk about the continuous progress monitoring that we have in place, the schools that I think are doing it the best are when I walk in and what I see plastered all over the teachers' lounge and everywhere else are individual student reports for every single child in terms of how they're doing in reading and how they're doing in math because what we're talking about is a system of education that benefits absolutely every single child.

Do we still have a ways to go? Absolutely. I know that I worked with a Title I Technical Assistance Center for nine years and what I heard over and over again

was the fact that Title I, we've wasted all our money. My comment to that always was, we have put -- think about if we wouldn't have put that money and time, effort, and energy into that, how much farther behind our kids would be, and that's kind of where I'm coming from, but I know that we still need to go forward.

In terms of the reauthorization -- and I know I've already talked about this -- the reauthorization to which one? ESEA will precede IDEA; it absolutely will be done first. So, when we know what will become part of ESEA -- and again, I absolutely agree, I talk about alignment, where it is appropriate to do the alignment. I think that what we put into NCLB and held students with disabilities as part of the accountability system, it was one of the best things that ever happened, and I think for the first time we are beginning to see the results of holding kids to the same high standards because we did not do that in the past.

MS. FRIEND: I think I'll echo Alexa's positive outlook. Certainly there are many issues to address. No one would doubt that and certainly if you talk to almost anybody, we can identify issues. One of the factors that I bring to this conversation is extensive work in schools, in classrooms, observing teachers, observing students, interacting with the people who are in this business doing the day-to-day work. And I would tell you I don't think that special education has lost its way as much as it's now experiencing some pretty significant adolescent growing pains where what we used to do was, of course, revolutionary when it was conceptualized and we had to go through that period of simply gaining access and ensuring compliance. But we are relatively new at the business of setting higher standards and if you go out to public school settings, you will still hear people with very good intentions saying we want to take care of these children because we want to be kind to them, and we want to take -- to be supportive of

them. And the low expectations are not out of cruelty, they're out of kindness -- misguided kindness -- and compassion.

The business of preparing all teachers for students who are, for the most part, quite capable of learning the curriculum is not going to happen in a short period of time. It's not appropriate to make the problem that of the student with the disability. We need to change teacher preparation, pre-service preparation, for both general ed and special ed, and then we need to carry that into the in-service realm because there is an entire generation of teachers who with good intentions may not set high enough standards for the students with special needs.

Inclusiveness does not mean sit in a general education setting every moment of every day. Inclusiveness means a belief that you are a part of your school community and that to the extent absolutely possible, we want you with typical peers, but it doesn't preclude the intensity of instruction that some students need.

MR. FUCHS: Well, I really hope that at the end of this I am not seen as the Darth Vader of this panel. I mean, I have watched and tried to participate in the development of positive experiences for children and youth with disabilities for the past 30+ years and have seen lots of progress among many fronts.

I think that the problem that I was referring to in my remarks is -- can be seen in what's happening with responsiveness to intervention. This is really rather interesting because what I'm going to say -- describe briefly, I think, is clearly an inadvertent byproduct or result of responsiveness to intervention. If you look at the well-conducted research that has been done, that is, the researchers who have deliberately and carefully constructed tiers of increasingly intensive instruction and worked with practitioners to implement those tiers in public schools, what you see inevitably,

invariably, is a lot of children respond positively, a lot of children are positively effected by well-implemented responsiveness to intervention programs. And many children who would be "false positives," children who would appear to be disabled, are not -- and perhaps labeled as such -- are not seen as false positives because these increasingly intensive tiers are helping them, are accelerating their progress and so that they no longer look like they're disabled. That's all to the good.

But what we see across these research studies, these very intensive, well-resourced studies of RTI implementation, is that there is always a proportion of children who do not benefit from these intensive tiers. Looking across the studies, roughly the equivalent of 5 percent of the general population, the equivalent of about 5 percent of the general population of school-age children are unresponsive. Now, my estimate, my conservative estimate, is that that 5 percent probably translates into at least 10 percent when practitioners are implementing because they're less resourced, because anyone who knows about life in schools knows that practitioners are oftentimes a little bit less focused than the researchers who have only the research to do, so 10 roughly -- this is my estimate, 10 percent -- conservatively -- 10 percent of the school-age population are chronically unresponsive. Okay?

So, here's the thing, I know of no efforts -- successful efforts -- to deal with this "chronically unresponsive" subgroup of children. If you look at national surveys of practitioners implementing responsiveness to intervention, and some of these have been published, you find that the greatest confusion is about the most intensive tier. What do we do in this most intensive tier to help these children? And who's doing the intensive instruction?

What I find noteworthy is that there was a technology of instruction

developed many years ago and refined over time to personalize instruction for precisely this subgroup of children and youth and it probably reached its apex in terms of implementation in the 1970s and early to mid-1980s. You cannot find this personalized instruction anymore because it is not taught to young, aspiring special educators in colleges and universities. And I think part of the reason for that is that aspiring special educators today are taught -- these are my words, not anybody else's -- they're taught to blend into, to become a meaningful part of general education, and so we see, for example, co-teaching where special educators work together with general educators. Co-teaching has, I think -- although the research is rather spotty, I think that one reasonably can say that when done well, co-teaching helps -- can help, many students with disabilities, but it cannot help all and it cannot help those who are chronically unresponsive for one simple reason: co-teaching, for whatever good may be said about it, is intrinsically not intensive enough and not, I would say, expert enough for children with very serious learning problems to help those children.

We need to do something else, and when I said that special ed has lost its way what I -- perhaps a bit melodramatic -- is that the capacity that special education had at one time in some places is no longer and if we hope to help this bottom 5 percent or 10 percent or maybe more, we need to rediscover the expertise, the instructional technology, that is here for everyone to use, but lies inert. That's what I was trying to say.

MR. WEST: Okay. Thank you. Let me just sort of throw out a couple more questions and then we will open the floor to you.

A couple of you mentioned the issue of funding challenges, so I'm just curious what each of you think in terms of the fall off in government revenue, really, at all

levels of government, what impact that will have on special education? And then secondly, Lon mentioned technology solutions to special education and the potential with new digital tools to personalize learning and provide continuous feedback. How much of a solution will that turn out to be?

MS. POSNY: Well, I'll be happy to take this one first. Funding. It's interesting because I had a chance to take a look at what the number one issue was in 2010 in terms of special education and it had to do with the modified achievement standards, so I know some of you will find that very interesting, and this is from some of the reporters and so forth. The projected number one area of interest for 2011 in terms of special education is funding. And we're already beginning to see that as absolutely an issue. As we take a look at the decrease in funds, first of all the Race to the Top funds for some of them, the ARRA funds, I mean, when we take a look at where some of those are going, there is going to be a cliff and it is going to impact both special education as well as general education. I can see it -- you know, I've already begun to hear about it.

The issue is going to be is -- and this is where I kind of like the blending that we've had over the past. You know, I haven't heard as much about the fact that special education is taking money away from general education. I believe that had been toned down over the years. I believe that's exactly where we're headed, because special education is a guaranteed level of, you know, service to kids. The amount of money that has to be in special education has to be at the same level, if not more than the previous year. It's part of maintenance of effort. It's everything that's required in there just at a time when schools are looking at trying to cut.

I believe we're going to hear a lot about the need for increased funding, and Marilyn, I'm glad you mentioned it. Would I like full funding for special education?

Absolutely. That's, you know, something that we ask for every single year and I know that there are many, many Congress people who are out there who would ask and have asked, every single year, for the same level of funding. I don't know whether we'll get it.

In terms of technology -- and I'm so glad you brought that up -- I think technology -- and this is where, you know, I always take special pride in the fact that I think technology really comes out of serving kids with disabilities and then benefits the whole rest of the world, and I really believe we in special ed are the leaders, even in terms of instruction. I believe we discover what works really well and then we figure out that it benefits everywhere else. Absolutely, assistive tech, everything else. That, I think, has improved and, you know, enhanced the lives of kids with disabilities to places I never thought we could go. So, when I think about the other parts of funding where we fund the research and innovation and so forth, that's absolutely where we see the need to continue to do that as well as.

And I just want to make a comment in terms of Doug and the population, I agree with him. I agree that we have kind of lost our way when we talk about working, especially those who are most significantly -- have the most significant needs, and, you know, I'm hoping that we can begin to put dollars into research to go back and retrieve what we need to do.

MS. FRIEND: I'd like to raise a specific example of a fear I have about the drop in funding. There are many special educators whose jobs are already so stressful that they can barely hang on. Many, many responsibilities in many, many different facets of education who often are asked to informally provide support to students who are at risk, but who are not eligible to receive special education services.

I think that one additional danger -- it's just a microscopic example -- of

decreased funding is that as fewer other supports are available to students, people like literacy facilitators and some of the other roles that are often at risk when funding drops, I think there's a real risk that special educators will be stretched even further, almost to the breaking point. In a way that supports -- you're not Darth Vader -- in a way it sort of supports what Doug said in that if we have personnel who are asked to do so many different pieces that they cannot do any of the parts of their jobs well, then it's not surprising that we won't get the outcomes that we need.

I don't think any of this should be a dichotomous conversation. It's all about gradations and variations and looking at the various components that are in play, and the increasing number of responsibilities of special educators that go beyond, really, the traditional limits of their jobs, is making the funding issue even more complex for them at the school level.

MR. JACOBS: In terms of the funding issues, it's even worse than just having the funding cut back. When you're approached -- again, I know this from my New York experience -- even when you're entitled to the funding if you're a private school, because the state and the city are in such financial difficulties, they will do whatever it is they can to avoid reimbursing funding that you're entitled to, so that's the negative.

On the positive, though, it is -- for the first time since I'm aware of, education is really getting the spotlight it deserves. And it's -- that's leading to our -- you have foundations like the Gates Foundation pouring money into these issues, and you have corporations like News Corporation who are really focusing on trying to help education, not just from a nonprofit point of view, but from a for-profit point of view, where this is you can do well by doing good, where there is so much -- there's so much just over the horizon with the technology in particular, that there is a lot of attention that didn't used

to be there, and with that attention comes funding.

So, I think that although there are a lot of short-term horribles about funding for education, I think there is a silver lining on this cloud.

MR. WEST: Okay. Why don't we open the floor to questions and comments? We have someone with a microphone, so just raise your hand. In the very back on the aisle. And if you can give us your name and your affiliation.

MR. AUXTER: My name is Dave Auxter, the Research Institution for Independent Living, and this is a question about has special education lost its way. Back in 1975, when the Education for Handicapped Act was initiated, the outcome was to be a self-sufficient individual as a result of special education. That means that when you graduate from the special education program you have a job, you have requisite domestic and leisure skills. And my question is is there any debate about the validity of the current outcomes of special education which seem to be reading and writing?

MS. POSNY: Interesting. I love the term that you used in terms of talking about being self-sufficient, and this is where I'm going to go back and, yeah, I'm going to date myself because, you know, I've been in this since before 94-142. I don't believe the word "self-sufficient" was ever put into 94-142. And what makes it even more interesting is the fact that we're also working on the reauthorization of the Workforce Investment Act, very clearly, you know, for independent living and so forth. And one of the major -- what we think is a game-changer that we want to see in the reauthorization of the Workforce Investment Act is we want to change it to the outcome being self-sufficient because it's not in there.

Why this is a game-changer is that when we think about living and, you know, living on minimum pay is not self-sufficiency, so, therefore, we want to stress within

the reauthorization the fact that people will be self-sufficient so they can live on their own, that they don't have to live in a segregated facility. So, I'm not going to disagree with you because I agree, I absolutely agree with you and the fact that what we need to have as one of our predominant outcomes. And if you take a look at Arne Duncan and President Obama in terms of what we've been promising, is we're talking about college and career for the first time. And we're talking about this for everyone, that we must ensure that people -- you know, anybody -- leaves the high school, the K-12 system, with something that prepares them for the future, whether it be to go on to postsecondary or whether it be for a career or job or whatever else. We haven't guaranteed that in the past. Howard Gardner is the one who said it the best. He said, you know, "If we haven't really emphasized the fact that children are going to do something once they leave the public school system, then we've failed." And I couldn't agree with him more.

MR. WEST: Yes? Right there.

MS. RAIMONDO: Good morning. My name is Barbara Raimondo and I'm with the Conference of Educational Administrators of Schools and Programs for the Deaf. And my question is for Mr. Jacobs. Probably -- I really appreciated your comments about least restrictive environment because I think that's one of the most misunderstood pieces of the law, and for our organization that's probably the one we wrestle with the most because of the misunderstandings around it. And it's often thought of -- sometimes people use the term "LRE" and "mainstream environment" as though they're interchangeable, and we know that they're not. We know that any environment that isn't providing a free appropriate public education can't be the least restrictive environment for an individual child.

So, my question is about how -- and especially since I saw that you're a

media man -- how can we frame this message so that it's better understood? I think all the discussion around it is very well intended. When people talk about inclusion, we don't want to turn anybody away, that's very benevolent and very good and that does work for some children, but there are other children who really need a setting where they can communicate freely with peers. I mean, I have two deaf children myself, so I live with this every day. So, what can we do about the message so that the concept of "least restrictive environment" is better understood?

MR. JACOBS: Let me start off by saying I'm just a lawyer. I'm in a media company, but I don't know how the media works.

I think that we -- the reason I brought it up was because I think we have to have that conversation. I think the only way to move towards a world where you do -- your goals should be, as you said, you know, you would love to have least restrictive environment, but it doesn't work for all children. You need to have that discussion in the public and I think that we're all trying to do that now, which I think Arne Duncan and others are trying to have these public conversations. I think we just need to make sure that it happens more and that we try to create programs that are more flexible so that it does take into account these different issues.

MR. FUCHS: I think that it's more of -- it's more than a message. I think that the country -- I think that there is not strong consensus on what inclusion should mean. For a lot of people inclusion -- a big part of the definition, if not all of it, is that inclusion must involve placement in a certain setting and it's not synonymous, but it must include placement in a regular classroom.

I think a lot of people feel that way and so when someone like you or Mr. Jacobs talks about alternative placements, then by definition, we're not talking -- a lot of

people think we're not talking about inclusion, and so one of the things that's interested me over the years is how little dialogue, discussion, there is about that belief. I'm quite certain that belief is out there and shared by many, and I think that we need to have a discussion about it. We need to have a mature discussion about it. It was and can quickly become an extremely heated, passionate kind of discussion but, you know, I think it's one that we have to have.

MS. FRIEND: Could I add that I think part of the reason for that -- I agree with Doug completely -- I think part of the reason for that is that the way students with disabilities are counted in school is where they're seated. We measure the educational environment and so it's not surprising that practitioners have equated where you sit with whether or not you are included without looking at a more sophisticated understanding of it. I actually think that part of this conversation has to be about a reconceptualization that the educational environment is more than just where you sit. It's the nature of the services and how responsive they are to your needs, and that one of the factors that could really help us all would be to ban the use of the "I" word in any of our interactions and instead speak in phrases rather than using a telegraphic single word that's actually become a misnomer for many good practices.

MS. POSNY: You know, it's interesting, and we've spoken about this before so, you know, it's interesting, basically when inclusion came about it almost became an all or nothing, you know, and that's part of our problem. You know, I've always talked about the fact that this is like a pendulum that swings. When I started in this, yes, we had segregated classrooms and so forth because we didn't know any better at the time. That was fine. When inclusion kind of came about and morphed out of mainstreaming and all the rest, it was almost as if we had to go completely to the

opposite end. Now all the kids, 100 percent of them, need to be in general ed, 100 percent of the time. It's not that way.

And I look at this as a pendulum. We have got the cascade of services, you know, we continue to have a need for that, we will always continue to have a need for it, and I think having a dialogue, I think would be a great idea. If we can figure out what is it and when is it that it makes -- when do we make that choice?

MR. WEST: Back there?

MS. CRANE: Samantha Crane for the Bazelon Center for Mental Health Law. I have a kind of a follow-up question. It was originally independent, but now it's going to get morphed into the inclusion debate.

We have a lot of -- we see a lot of kids who are being placed with -- kids with emotional disabilities, behavioral disabilities, who are being placed in disciplinary schools or even sort of a suspended or expelled as a result of their disability related behaviors. And I've noticed that the law itself actually defines LRE as avoiding special classes, avoiding schools with just kids with disabilities. And, unfortunately, it's making it harder to challenge these disciplinary placements from an LRE perspective even though it seems like from a reasonable standpoint that if you are placing a kid because of a disability in boot camp or other kinds of really restrictive placements, that's not an LRE. It doesn't matter if this is explicitly a disability classroom or not. And I was just wondering if anyone had thoughts on how to serve populations of children with disability related behaviors who are currently actually getting kicked out of school and excluded from the school environment?

MS. POSNY: It's a question that we've been asking for 35 years. My first teaching job was teaching emotionally disturbed middle school kids. This is where I

usually make a joke; I think all middle school kids are emotionally disturbed, so it was an interesting proposition. But you're absolutely right. There was -- there is in the law a protection that very clearly says that as a result of the disability, a child is not to be suspended and/or expelled, and this very clearly is applying to behavior disorders and kids with emotional disturbance. They are not to be removed on that basis, and, you know, if this is what's happening, then there may be some investigation we need to do on our part because that's not appropriate.

And what we need -- and I'm glad you're here -- is -- and it's something that we're hearing about in relationship to what happened in Tucson: We need to be able to provide those mental health supports that are so necessary to help the kids and the behavioral supports and so forth. You know, I had a lot of fun with the kids -- they were all boys -- because they really -- once you form that relationship with them and gave them the counseling and the support that they needed, you know, the kids could actually shine, and I just think that's something that we need to do even more so. So, I'm hoping that we can see more of that and I believe in light of a number of things that have happened we will see continuous support.

MR. WEST: Up front here.

MR. SHERMAN: Mark Sherman with LRP Publications. The comments you made, Mr. Jacobs, and the proposal by Governor Christie in New Jersey of creating separate schools for children with autism, I'm just wondering where the legal line lies. The Office for Civil Rights enforces the ADA and Section 504. At what point would creating a school that admitted only students with a certain disability category become illegal, a violation of our civil rights laws? Because certainly if we created a school that admitted people of only one race we would treat that as illegal and there would be

enforcement action. So, where does the legal line get drawn?

MR. JACOBS: I don't know the answer to that question. That's not the kind of law I practice.

MS. POSNY: Well, and speaking -- and, Mark, we've briefly talked about this. It's the same question we're getting right now about charter schools. You know, charter schools, in some respects, are excluding kids with disabilities because they don't know how to deal with them or the fact that they just are not taking them at all, to the point where now we're hearing about charter schools that are being set up specifically for kids with disabilities. It's part of the discussion I believe we need to have in terms of, you know, inclusion across the board, that is a critical part of all of this.

The other one is something -- and I don't remember which one of you talked about it -- you know, doing this based upon a categorical label I don't think gets us anywhere. What we have to take a look at and base our services and so forth on are the needs of the child, regardless of what category they may fit in, that really doesn't make that much difference. What is it that the child needs, whether it's academically, whether it's behaviorally, emotionally, or whatever else? When we begin to think that way, you know, that's where I think the dialogue really needs to concentrate on and that's where I think we can get at when do we know that we need to provide such intense services that for all intents and purposes a child may need to be receiving one-on-one services with, you know, by him or herself. And again, I don't think it needs to be based on label.

MR. JACOBS: And again, my position was that I did not agree with the notion that all kids with autism should go to an autism school. In fact, my daughter goes to school with children on the spectrum and I think that there is terrific impact that these kids have on my daughter because of their academic abilities, and I think there's terrific

impact that my daughter has on them because of her social abilities. And I think it would be a tragedy to segregate these kids. They shouldn't be segregated except for, as was said, they're the most profoundly challenged who really do need a special setting.

MR. FUCHS: Well, and let me just add that, you know, there are many Catholic parents who send their children to Catholic school. There are many parents of -- who have daughters who they -- parents decide with their daughter that a same-sex college -- there are well over 100 all-women colleges in the country, there are public schools that now permit single-sex K-12 schools. There are local school districts that have set up all-male African-American schools.

So, you know, there's lots of precedent -- precedent isn't exactly the right word, but there are lots of examples beyond disabilities for having options for children and youth of certain backgrounds and experiences, and so I mean, it's not too much of a stretch to see -- to create a rationale or an argument for having similar options for students with disabilities. And I agree that -- I mean, I don't think anybody is saying, well, because you are X, you must go to -- but rather, there are these options out there. And I've always felt that, you know, the greater the number of options, presuming they're all legitimate, the greater it is for everybody. And I think that's really -- that's a belief or an attitude that is feeding, for good or bad, feeding the charter school.

MR. WEST: Right there on the aisle?

MR. NYANKORI: Hi there. I'm Richard Nyankori. I'm deputy chancellor for special education in the District of Columbia Public Schools. I really have two questions, but I know I'm probably only limited to one. One has to deal with -- to piggyback on the counsel here from the Bazelon Center about students with emotional disturbance. The outcomes there are just sorrowful. And we see more and more kids

with that ED label headed straight for incarceration at rates that I think if they were more public we would just have more of an outcry, or maybe we wouldn't. And it's just something you might want to comment on because we certainly see that. And there are certain exclusions in the law also where kids who present with very dangerous violent situations are excluded, even when it is a manifestation of disability. I just wanted to point that out.

But to Doug and Marilyn, we're quite fond of your work in the District and what I'd like to understand is, for that chronic 10 percent who seem nonresponsive what needs to change in teacher education in particular? I know there are things on the school side we have to do, but what would change in teacher preparation to make sure that we have more teachers in the pipeline who are able and equipped to feel -- hit the ground running for that 10 percent?

MS. FRIEND: I'd like to speak to both parts of your question. We'll call it one question with two parts.

I think one critical piece on the notion of the students who have extraordinary behavior issues is that we have to be very careful when funding is dropping not to take out early childhood programs. We know that children develop the -- children who are in high school and middle school who have extraordinary behavior issues, usually did not grow those overnight. There's a long history and we need in very intensive early services to help change that trajectory and with funding cuts early childhood often is at risk and yet we know that some of the most significant changes can happen with very early intervention services, and so I know that -- I don't mean to be simplistic. I know the challenges are enormous and you have students now who need an array of services. I think we have to do what we were talking about before and make

sure that we match services and needs so that if there are students who need highly restrictive settings, because that is how they will be successful, and I think of the work of some of the people who work in that field like Mike Epstein, there are very good quality programs and services for kids that can make a difference.

On the issue of teacher education, if I switch gears here, I really do believe that to prepare -- if we're just talking special education, we need to be sure that special educators are prepared to be special educators. I'll kind of step out onto my limb here in that I believe that special educators need enough knowledge of general education that they can function in that environment and certainly contribute, but they must acquire the specialized knowledge and skills that enable them to meet the needs of students who have these very specialized needs for intense instruction.

As Doug said, there are many approaches, there are many strategies available and we have to ensure that the pre-service teachers learn those strategies.

MR. FUCHS: To piggyback on Marilyn's point, I think that the kinds of skills and knowledge that pre-service teachers need are knowing how to teach reading in multiple ways, knowing how to teach math in multiple ways, knowing how to collect data on an ongoing basis, not for, you know, not for hundreds of kids, but, you know, for relatively -- for a relatively small -- if we're talking about children with severe learning needs, we're talking about caseloads for teachers that are manageable, and any time -- you know, if you get above 20, you know, kids, each of whom has a very serious learning problem, you're making the most -- you're creating a situation where the most competent teacher becomes incompetent.

These kids need what some people refer to as "data-based instruction," it's going back and forth between assessing and instructing, assessing and instructing,

and where this teacher preparation has been successful, teachers are actually trained to be researchers. They are clinical researchers because they're working with children for whom off-the-shelf curricula and materials do not work. And so they need to be -- they need to explore what is going to work, so it's an inductive process. One learns what's successful for a given child of this type over time. You don't look at the child or read the child's record and deduce he needs X, you find that out over time.

MS. FRIEND: Could we all say diagnostic teaching? For those of you who have been around for a while. I think we're all dating ourselves, and I just want to add just one small piece because I'm sure it's just an oversight, because I think it's also really, really, really good, well-developed skills related to behavior management and responding to students' behaviors, that's the accompaniment to the academic side that must be in place for new teachers. The skills teachers used to learn for students with emotional disabilities now are needed for working with many, many, many students. Now teachers must have that next level of expertise for students who do have emotional disabilities.

MR. FUCHS: If I could say one other thing, I want to pick up on something that Alexa said. No, I want to strongly support something that Alexa said. If you look at -- if you take the time to look at what is going on in education that's relatively successful, that enjoys a kind of good reputation, a lot of it comes back to special education research and development. For decades the Office of Special Education Programs funded hundreds of special education researchers who developed among other things direct instruction, data-based instruction, progress monitoring, formative assessment, a lot of the techniques that have been adopted by general education and so special ed, I find it, frankly, very upsetting when I hear some people talk about special

education as though it's inherently a bad, and that crops up in lots of ways. Special ed is bad, special ed is something to be avoided, it's a dead end, it's death in the school, so to speak, when really special education as a field has accomplished many wonderful things and has produced lots and lots of techniques and products that everyone can benefit from.

MR. JACOBS: If I can just give an anecdote to support what Doug was talking about with the curriculum. Molly was at a school where she was struggling with math and the assignment came home, the teacher knew that she was struggling with this math curriculum, said to Molly, do your best, with a smiley face on it, and that was her help to Molly. So, we immediately took her out of that school. She's now at a school where they're trying this curriculum; the teacher said she's not getting this curriculum, so we're going to try a different curriculum. That's what it takes. And it's -- you'd be surprised, it sounds simple, but finding those teachers who have that ability is very difficult.

MR. WEST: Okay, right here.

MR. LIPKIN: My name is Paul Lipkin. I'm a developmental pediatrician from Kennedy Kreiger Institute in Johns Hopkins. I also am a Robert Wood Johnson health policy fellow, and finally, I'm involved with policy work through the American Academy of Pediatrics.

I'd like to focus this question on the earliest years. IDEA, historically, has essentially created silos. Our early intervention model, which is sort of low-intensity, home-based, our preschool model, which has become more and more, particularly with autism, centered around intensity -- high intensity -- working on the developing brain in order to get -- keep progress in early years. And then we have our elementary model,

which is -- clearly goes towards least restrictive environment and inclusion. I find that families have a real hard time making -- not just the children, of course, but the families have a hard time understanding those differences and making the transitions between those differences, and the school systems even more so. And while the last three reauthorizations of IDEA tried to build in some improvements on the transition, I think we still are stuck with models of education and delivery of care that are very different from one another and have a difficult time coexisting.

So, my fundamental question is with the reauthorization of IDEA, how can we work towards a model that is more continuous over time rather than the three-year-old with autism who's having stuff pounded into him day and night, and then when he becomes five years of age, all of the sudden he's tossed in in a regular kindergarten class?

MS. POSNY: That's a great question and, you know, what was interesting was having the ARRA funds, the recovery funds, allowed two states for the first time to have enough funds -- and I'm going to talk about Part C, the Infant and Toddler Program, because almost always, at the age of three then, the child then, if he continues to be eligible, then moves into the three to five Part B 619 program, you know, all of that. Two states had enough money this time to allow the ability to be able to continue Part C services up through the age of five and into, you know, the elementary school program. Maryland is the one that I want to talk about because that's exactly what they did.

They came and spoke to us and shared the results of having that in place for one year and their results are nothing short of phenomenal in terms of the number of parents who opted to keep their child under Part C services because the

difference -- and I know I'm probably speaking to the choir -- the biggest difference is, it's not just providing individual service for the child, but it's an individual family services plan, so it continues to work with the family, a critical part in terms of making sure that the kids are successful.

Maryland has found this to be so beneficial and the outcomes for the kids has seen such an improvement that they're trying to figure out how they can continue to fund this model even when the money runs out. Those are the kinds -- that's exactly what you're talking about. Rather than requiring in the law, which we did for the first time, that Part C must be at the transition conference when the child transfers to Part B, that's not sufficient. It's kind of the same thing when we make a transition from middle school to high school, that's not sufficient. And we don't even have voc rehab or we don't even have, you know, someone planning out their high school program. I believe -- now, I'm not going to speak out of turn -- I believe you will be seeing some of these -- this kind of information and these kinds of -- what should I say -- of where we want to go in the reauthorization. You speak very eloquently to the deed.

MR. WEST: Okay, I think we have time for one or two more questions. Right here?

MR. FELTON: Good morning. Reggie Felton, National School Boards Association, as many of you know, former president of Montgomery County Board of Education.

I appreciate the rich dialogue, but from a perspective as a local school board member who's trying to figure out how do I make all this work. They've just been briefed on the special ed department and they all support everything you've said, and then follow that -- is general ed, and then within general ed are ELL students and others

deserving attention. And then there's the facilities folks and there's the busses, there's the food services. I mean, there are all these things that local school districts are challenged with and, as you say, meeting the needs of their student.

So, I suppose our question is, what is it that you believe would be different in this reauthorization that would help school districts and states, for that matter, to structure in a way that the behavior will really change? Because, you know, it's like the old specialist. You know, you go to all the doctors and you have all your specialists there when you're lying on that operating table and the patient dies. And they go around and say what happened? And each doctor said, well, I followed my procedures just as I should, and each one followed their procedures just as they should, but the patient died.

So, I guess the challenge for us is what is it that we could expect to see pushed through our members of Congress, through interest groups like us and yours that would really make a fundamental difference? Because all of us are concerned with the delivery of educational services for special ed and general ed students. And if you talk to any teachers in general ed, you know, they're saying do the special ed folks think we have all this? We don't have it either. So, what is your call that will be different in the reauthorization?

MS. POSNY: I can suggest one thing, and this is one place where I always have to be very careful because I can see everyone walking out here saying, did you know -- did you hear her say that she wants to get rid of the funding for special ed? That is not what I'm saying. What I am saying is that I would like to see the ability to be able to blend the funding so that the needs of every single child -- now, I'm not talking about getting rid of the money that has to focus on the kids who are identified in need of special ed, that's not my issue. It's when I'm talking about RTI and EIS and PBIS and

UDL and for those of you -- I'm so glad you all understand what I'm talking about, but when you think about this -- and the funding, it's not necessarily the federal funding that I believe has gotten in the way. I believe it's the state funding formula.

Someone out in the audience talked about the silos. We need to get rid of the silos, and I think the funding sets us up to continue to focus in on the silos and I'm talking about the state funding formulas. And let me talk about the state from where I just came, from Kansas. The funding formula for special ed requires that a special ed teacher is reimbursed only if that teacher is teaching kids who are identified as in need of special ed. So, what does that force the system to do? To identify more kids to be placed within this -- so that gets in the way of what we're trying to do because I believe we are over-identifying kids. But I'd like to be able to see on a pilot basis, because I don't know what this looks like, to allow some districts in the localities to be able to blend their funds -- and I'm talking about the Title I funds along with the special ed funds and so forth -- to really and truly build the system of education that meets the needs of every single child, regardless of how intense they are or whatever it is. And, you know, can we do that and still do it when we're talking about what Doug's concern is? We cannot leave out anybody in terms of what they need. That's one suggestion.

MR. WEST: Okay, we'll take one last question. Right there on the aisle.

MR. WECKSTEIN: I'm Paul Weckstein from the Center for Law and Education. We work intensively on both Title I for all kids and on education of kids with disabilities, so this is a really interesting session and I like a lot of what I've heard.

My question really is about adding a third body of law and offices to the dance, when we're trying to get everybody to dance together, which I think is a good image, and that's 504, which is a different office from OSEP. And the reason behind that

is that when I think about both reauthorization of Title I and implementation of the existing law as it applies to kids with disabilities, I think 504 is a very powerful law that, in its simplicity, it speaks to the attitude you all have talked about in terms of non-discrimination, but I think it goes to specific policies when we think about what it means to have highly qualified teachers for kids with disabilities; what it means when we think about, under the current law, supplemental services; what it means when we think about learning outcomes and are we making assumptions in setting certain percentages or making individual decisions about who's going to be subjected to lower standards in some form or another, not just different assessment, but also when we think about things like RTI in that how do we actually determine -- under the current law we're aiming for all kids to reach proficient and advanced levels. It's not clear what that's going to translate into under a new law, but the concept is important. And are we, when we're looking at RTI, using methods in which it's okay for a kid with disabilities so long as they're doing okay relative to the norms when, you know, because they're doing okay, but we're putting a ceiling on them by not fully addressing the needs of their disability, so they're not achieving what they could achieve, what other kids without that disability but with similar interests and abilities would achieve?

So, is 504 becoming part of the mix in your thinking? Is it part of the mix in the research thinking about RTI? That's my question.

MS. POSNY: You know, you've raised an excellent question in terms of ADA and 504 just kind of -- I don't want to say it muddies the water, but it really is something that we really need to focus in on, and you're right, OCR, the Office of Civil Rights, is really the purveyor to make sure that it's carried out.

The biggest thing we have in terms of 504, and this is not an excuse

because I want to answer the second part of your question, is the fact that there's no money tied to ADA whatsoever, and so we're getting back to the funding issue all over again. And if we go back to the way I would like to see the educational system, we should be holding any child, whether that child has a 504 plan, whether that child has an IEP, or the child, you know, is just a child in general ed, we should be able to help those kids to achieve to the highest level possible regardless of what program they're under. It's one of the reasons I'm talking about the fact I would love to see this all blended. You know, does it make a difference under 504?

You know, if the child has a disability, the child has a disability. It just does not impact their educational program to the extent that a child with an IEP does, and yet, does that child still have needs? Absolutely. Does the child need to have accommodations? You better believe it. Are there modifications? You bet. And we need to make sure that that's part of it.

And again, I really think it comes -- I really believe funding is what's getting in our way most of the time. And I don't think -- when you've got a good system and you've got a great school system and you've got a great principal and great teachers who really care about the kids, you don't see any of these lines of demarcation. Every child is being provided, that's really what we want to see.

MS. FRIEND: 504 also raises the issue -- and I'm going to cycle it back again -- to the preparation of general education teachers because we can't -- when you talk about raising that as a third issue, it can't become the responsibility of a system that really has been closely identified so that it does not become overwhelmed to then take on all of this additional responsibility. And so it comes back to two things: general educators and ensuring that general educators are prepared for the range of diversity of

the students that they teach now, whether it be students who are English language learners or students who have 504 plans or students with disabilities or students who are gifted and talented.

And I think it also really relates to what I see as a premise for this is an expectation of collaboration so that the knowledge and skills that special educators bring to the table can be shared with general educators, the knowledge and skills that general educators have are shared with special educators, and that we don't persist in trying to expect everyone to know everything. There's simply too much.

MR. WEST: Okay, I'd like to thank Alexa, Doug, Lon, and Marilyn for sharing their views with us and thank you for coming out on such a treacherous day. Thank you very much.

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CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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