



Transcript of NCSET Conference Call Presentation

The New IDEA: Critical Challenges Affecting States, Schools, and Families

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presented by:

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Dr. Johnson: Good afternoon and welcome to a teleconference that we have entitled “New IDEA: Critical Challenges Affecting States, Schools, & Families.” I would also like to extend a special welcome to our Exiting TA Community members who are also participating. Today we are very pleased to have Nancy Reder as our presenter on this very important topic. Some developments have recently occurred in the Senate and we are very excited about the information that will be provided here today.

I want to give a little background on Nancy so you are comfortable with whom she is and have an understanding of what role she currently plays. Nancy has served as the National Association of State Directors of Special Education’s (NASDSE) Deputy Director and Director of Government Relations since May of 2000. She has more than 25 years of experience working on policy issues affecting children and families. Ms. Reder began her professional career as a social worker, working with Vocational Rehabilitation clients and abused and neglected children and their families, and as a school social worker. After completing law school, she began working on policy issues affecting children and families, first for the League of Women Voters Education Funds and then for the U.S. House of Representatives Select Committee on Children, Youth, and Families where she focused on children with disabilities and family economic issues. She joined NASDSE after working for The Finance Project, a small non-profit in Washington, DC, where she wrote a book on federal funding for out-of-school time programs. So Nancy, that’s enough from me, why don’t you begin? Thank you, Nancy, for doing this.

Ms. Reder: Okay, thanks, David. I have been asked to talk about the reauthorization of IDEA. I am going to go through what we think are the major changes. They appear in both the House and Senate bills, so they are likely to show up in some version in the final form of the bill whenever that happens. At the end of my presentation, I will talk a little bit about what steps remain before IDEA becomes law.

I am going to start off by talking a little bit about

the activities that have gone on up until now. If it seems like IDEA reauthorization has been going on forever, it’s really only been three years. The Department of Education started holding some listening sessions back in 2001. They went all over the country and invited all the stakeholder groups in to talk about reauthorization and what their major concerns were. That was followed up by hearings in both the House and the Senate and then the President appointed his Commission on Excellence in Special Education, which held hearings around the country beginning in January of 2002 and issued a final report later that year, in July. A number of the recommendations of the Commission wound up primarily in the House version of the bill. Some of them have also appeared in the Senate version and so the work of that Commission was very valuable in terms of providing input, as well as, I think, the input from numerous stakeholder groups.

Although the bill sailed through the House about a year ago, there were some hearings recently that were held in the House Education and Workforce Committee that focused on the No Child Left Behind Act, but looked specifically at some pieces of IDEA and the interaction of those two laws. They had one on No Child Left Behind in Special Education. That was the entire focus of that hearing and then they held another hearing on highly qualified teachers where they also talked about highly qualified teachers and IDEA. I will talk about that a little bit more in just a minute.

Where we are right now is the House bill, HR 1350, passed the House on April 30, 2003 and they have been waiting very patiently for the Senate to get through its process. The Senate bill, called S 1248 up until about two weeks ago, passed the Senate on May 13. You maybe get a little confused by the numbers because technically what the Senate did was receive the House bill, HR 1350, and completely substituted its own version of the bill. So the bill that we are now tracking for the remainder of this reauthorization will be known as HR 1350 because that’s essentially the version that we are dealing with, although I want to stress that there are major differences between

the House and the Senate bills and those are going to have to be ironed out by the Conference Committee.

I want to pause for just a minute and talk about the stakeholder groups. It's very important, I think, to understand exactly why this bill has taken so long to get to this point. Primarily it's because there are numerous stakeholders who are very concerned about this bill and they all have, I would say, slightly in some cases, majorly in other cases, different perspectives on the bill and the stakeholder groups that NASDSE has been working with, and there may be some others out there. But primarily the ones that we know about are the education groups, disability groups, parent groups, related services personnel representing the related services workers like school psychologists, school social workers, speech and language therapists, occupational therapists, state and local elected officials who for many reasons believe that they either did not pay enough attention to, or were shut out of the process involving No Child Left Behind. So they are taking a much closer look at the reauthorization of IDEA. And finally, members of Congress who have their own independent opinions about what needs to happen in reauthorization. When you take all those different perspectives into account and try and balance what everybody wants, that's why this reauthorization, as well as the last one, took a long time to get through.

I am going to run through very quickly what the goals of reauthorization have been, primarily these are the goals, I think, that were laid down by the Administration and by members of Congress. You may or may not agree with these goals, you may or may not think that they have been achieved, but don't shoot the messenger here. I am only telling you what the goals were set out to be. And it's probably for you individually and with the organizations you work with to decide whether or not the bill actually meets those goals.

1. The first one is to shift from procedural compliance to a focus on student outcomes and that's an effort that really began with the last reauthorization—But there is more focus on it in this reauthorization.
2. Paperwork has been a big issue—all these issues were flagged by the Commission, by the way.
3. Simplifying the discipline provision to ensure that students with disabilities continue to receive educational services, but from the perspective of some of the stakeholder groups doing away with what they perceive as the dual discipline system—that is, a different discipline system for students with and students without disabilities.

4. Another key issue of reauthorization is identifying the right students at the right time and I will talk about some changes in both the House and the Senate addressed there.
5. Strengthening monitoring and enforcement, that's another critical issue, particularly for Senator Kennedy, who has been one of the key players in terms of getting the legislation out of Congress. There has been some strengthening of transition both on the early childhood side, that is for young children who are transitioning from Part C to Section 619, and also to strengthen the transition process for those students who are exiting as adults.
6. Preserving student and parent rights, that's another issue that people hope to preserve and again I think a lot of people have very strong feelings about whether or not that has been achieved or whether student and parent rights have been taken away.
7. Finally, aligning ideals with NCLB to the extent that it is possible to do that and since the House went first, they said quite clearly that IDEA was not going to be used as a piece of legislation to dramatically change to the No Child Left Behind Act, but rather to try and align those two major education bills to the extent that they can be.

Let me turn now to some of the specific changes that you will definitely see in the final bill.

- *The definition of "highly qualified teachers."* You probably all know that the No Child Left Behind Act lays out the definition of a qualified teacher with respect to teaching core content areas. It's silent with respect to highly qualified special education teachers—because the House bill went through rather quickly and they recognized that this was a key issue but had not really come to an agreement on what their language ought to be. They simply put some placeholder language in there—that is, they adopted some language in the definition section of IDEA that says, the highly qualified teacher is what a highly qualified teacher is under No Child Left Behind, without any amplification. The Senate people who are working on this bill tried very hard to grapple with all the issues and they finally came down on the side of saying that, whether or not you are a highly qualified special education teacher has to do with the kind of environment that you are teaching in. The problem of identifying a

highly qualified special education teacher based on the environment in which he or she is teaching is that, particularly in small school districts that may have only one or two special education teachers, those teachers work in multiple environments. Whether they are teaching at the elementary level, at the secondary level, as a resource teacher in a self-contained class or at the secondary level teaching children with significant cognitive disabilities, you may have a special ed teacher who does all of those things. Therefore you are asking those teachers to meet several different sets of requirements to be a highly qualified special education teacher, which actually goes way beyond No Child Left Behind, which basically says if you are teaching core content, you need to be highly qualified in the core content area. But you're probably unlikely to find a lot of teachers who are certified as special education teachers, certified in multiple core content areas and also, by the way, know sign language. So it's a difficult issue to address. The bottom line is that everybody wants to ensure that students with disabilities are taught by highly qualified teachers and this is probably the number one issue that needs to be ironed out in a Conference Committee. And there are several other proposals out there; it's too early at this point to say what the final language is going to look like. I don't think anybody knows at this point or if they know, they are not saying anything.

- The second issue that is going to crop up and will be in the final version that I referred to earlier—*identifying the right students at the right time*. There are a couple of changes made. First of all, both the House and the Senate bills allow a local education agency to use its IDEA funds for what are called prereferral activities. They are called prereferral services in the House, they are called early intervening services in the Senate, and an LEA can use up to 15% of its funds to provide services to students before they get a referral to special education. It's interesting to note that in the bill that just passed the Senate, they took out the word "educational" before "services." That was a technical change that was made in the final language. So we now have "Early Intervening Services" instead of "Early Intervening Educational Services." I take that to mean that it clears the way to provide related services to children before they get referred to

special education. Of course, I don't have an interpretation from the Department that tells me that that's what it means, but that's the way we here at NASDSE are reading that language. The one issue that we need to be cautious about in doing this is that students don't get "stuck" in prereferral activities without getting a referral to special education, if in fact that's what the student needs. These students who are in prereferral activities do not have a FAPE entitlement. And there are concerns by some stakeholders that a student will get stuck forever or for too long a period of time without getting a referral to special ed and getting those services. So that's something to be mindful of and to keep track of.

- *The identification of students with learning disabilities* is going to change. I think I am quoting the exact language from both the House and the Senate bills when I say that the identification of students with learning disabilities shall not be -- the LEA shall not be required to take into consideration whether the child has a severe discrepancy between achieving and intellectual ability. That is, they are telling LEAs that they do not have to rely on a discrepancy formula to identify students with learning disabilities. This raises the issue, how are students with learning disabilities going to be identified? There are some models out there, a lot of people are talking about a Response To Intervention (RTI) model, a lot of people are asking, what does RTI mean and we don't have time to get into all of these issues on this conference call. But again this is something to be mindful of and watch for some of the papers that are coming out from other organizations on this issue and to see what the Department is doing with respect to some of these activities.
- *Establishment of risk pools*. The House and the Senate bills say that the State Education Agency – in the case of the House is optional and in the case of the Senate is mandatory – there is a need to set up a risk pool to help LEAs with the cost of high-cost students. The House says that the state can use up to 40% of the state's set-aside for an optional risk pool. The Senate Bill makes it mandatory and says 2% of the state's total Part B funds must be used for a risk pool and it talks about how to calculate what is the high cost and it also has the grandfather clause that says that if the state has an existing program, it doesn't

have to follow the precise language in the Senate bill. We know from a survey that we did about a year and a half ago, that about half of the states already have some sort of formal or informal assistance that they provide to LEAs with the cost of high-cost students. This is something, again, I don't have a crystal ball and I can't predict which language is going to get adapted in the final version and again the language is very different in both the House and the Senate.

- ***Strengthening transition*** is another key point. The House language is virtually unchanged from existing law. The Senate says that instead of having two different approaches to transition, there is one approach that starts at 14 and another more comprehensive approach that starts at age 16—the Senate language focuses on beginning comprehensive transition services at age 14. Those of you who have students at the high school level or beyond high school probably know that you really have to start planning transition probably even at a younger age. Those of you who have students who are anticipating going to go on to college start taking courses that put them on a college preparatory track when they are in middle school at about age 12 or 13. And so starting at age 14 may be a little too late. But that's where the Senate language came down and I think, there are some members of the Senate who feel very strongly and people who work on transition services believe that this new language in the Senate will help a lot in terms of ensuring that students get transition services and that there is a transition plan in place starting at age 14 because this is something we really need to pay attention to starting at an early age.
- ***There is new language in both the House and Senate bills that allows parents of young children who are in the Part C program to remain in it when they turn three.*** The House and the Senate bills both say that if your child is receiving Part C services and then turns three, they can stay in the Part C program—that is, if you receive services from a private provider as opposed to perhaps getting services from the local education agency. There are two things that parents need to be mindful of if they want to choose this option for their children. One is that if you stay in Part C, you do not have an entitlement to FAPE that you would get once your child enters the Section 619 program, which is part of Part B. The other

thing that the parents need to know is that some services that they receive under Part C they have to pay a co-pay for. That would not be the case if they are receiving services under Section 619. So I think, if you are a provider, it's very important and if you are a parent, it's very important that you understand the pros and cons of staying in the Part C program versus moving to the Section 619 program. It's also important to know that this option doesn't apply to parents of children who are not identified until after their third birthday—that is, they would go immediately into the Section 619 program and they would not have the option of choosing Part C.

- ***Reducing paperwork*** is the big issue; we have heard that over and over again. We know that there is a lot of controversy and it has been very difficult sometimes to even get people in the same room to agree on what do we mean by "paperwork." We at NASDSE talk about paperwork in terms of time taken away from teaching and learning. But the House and Senate bills don't use that expression. They talk about reducing paperwork in a couple of different contexts. One is, in the case of the House bill, who needs to come to an IEP meeting and the language basically excuses the regular ed teacher from a portion of an IEP meeting if they are not discussing part of IEP that relates to the general ed teacher. The Senate would allow an optional three-year IEP once the student turns 18 and that would be for transitional purposes. There has been a lot of concern and, I think, a lot of misunderstanding about exactly what is a three-year IEP and that's probably something that a lot of people could debate. But my general sense is, from talking to a lot of people about this issue, that the three-year IEP is not necessarily an idea whose time has come and we may see more of this in the next go round. However, since there is some optional language in the Senate, my guess is that's where that's probably going to come down and keeping that as option for older children. There is elimination of benchmarks and short-term objectives from the IEP in the Senate; the House postpones it for a couple of years until all the report card and reporting requirements in No Child Left Behind kick in. The theory behind this is that No Child Left Behind is so stringent about reporting to parents that it could be used as a supplement to the IEP itself. Again there are a lot of people

who will have a lot of concerns about relying on NCLB for reporting information on their children. Another attempt to reduce paperwork: in the House they would allow up to 10 states, in the Senate up to 15 states to be granted waivers from some their paperwork activity. An interesting thing about trying to eliminate paperwork is that everybody sort of points the finger at everybody else when asked the question, “Who is responsible for the paperwork?” The feds say it’s not their fault, the states say it’s not their fault, and the LEAs say it’s certainly not their fault. This waiver is not defined in either the House or the Senate, so it will be up to the regulations to say precisely what a state could opt out of. This is something that a lot of states are looking forward to working on, but there are stakeholders groups that are very worried about what might be eliminated. Both the House and Senate bills reduce the number of times that a parent has to be provided with copies of their procedural safeguards. There may be some other places to look for reducing paperwork. That’s what I would expect to see out of this particular section of the law and since this is in both the House and Senate version and the only major difference is whether it’s 10 or 15 states. I think it’s safe to say that some provision along these lines will be included.

- With respect to *dispute resolution*: the House would allow voluntary binding arbitration. It’s important to know the difference between binding arbitration and mediation. With mediation, you have a mediator who listens and helps the two sides negotiate a resolution of their differences; in binding arbitration, the process is to pick an arbitrator who listens to both sides and then issues an opinion and the parties are then bound by that opinion and there is no negotiating around the arbitrator’s decision. So that’s optional and I can’t predict whether that’s going to wind up in the final legislation or not. The House has some language allowing for an “opportunity to cure;” they use the word cure to refer to the way in which a parent files a complaint, what the House language is basically saying is that the parent needs to put that complaint in writing and give the LEA an opportunity to address the parent’s concern. That is just really taking the matter upstairs from the school level to the LEA level and giving the LEA level an opportunity to meet with the parent and to try and resolve the issue

before going to due process or filing a complaint. And the Senate language is “an opportunity to meet with the disinterested party to help resolve where there is a difference.” There is a statute of limitations for filing complaints – it’s two years in the Senate and one year in the House.

- There is different *attorney fees* amendment language in both the House and the Senate. The House would allow the governor to set attorney fees. In the Senate, this was attached as an amendment when the Senate bill was on the floor. It would require that an attorney for a parent who files a frivolous lawsuit would be responsible for reimbursing the LEA for risk litigation cost. That language on attorney’s fees is really different in both the House and the Senate and again, that’s going to have to be resolved by a Conference Committee.
- On *monitoring and enforcement*—this is Section 615 for those of you who know all the sections of the law by heart. Major differences in the House and Senate language: they both have new responsibilities for the states in terms of monitoring and enforcement activities and the Senate bill contains language that is not in Section 615, but it requires the states to fund protection and advocacy agencies to provide legal advice to parents. That is not in the House bill and I think it’s interesting to know that the White House, in its Statement of Policy or SAP, which they issue when a bill is being debated, came out against that particular language in the Senate bill. I don’t know whether that language will wind up in the final version or not. And this whole section on monitoring and enforcement, I would say that this is probably the number two issue that we will be taking up in conference because of the major differences between the two versions.
- *Discipline* is another section where there are major changes in both the House and Senate bills. The major change is that the House says that a student with a disability, for any violation of the school code, would be subjected to the same punishment as a student without a disability would be subjected to, including removal for up to 10 days. Then there is the manifestation determination hearing. It has been eliminated in the House language; this is going to be a key issue, I think, that comes up in Conference. Actually there’s lots of concern on the part of lots

of groups about eliminating the manifestation determination hearing. The House also changed the language in the discipline section about whether the school should have known that a student who ran into disciplinary trouble should have been identified as being a student with a disability. The House language says that “known or should have known” must be in writing as opposed to having been a casual conversation between school personnel, which sometimes happens. So that’s going to be an issue to be looked at in Conference as well. The Senate includes the manifestation determination hearing; it also retains that language that, except in the case where there has been a knowing violation of bringing drugs to school or selling drugs, or a weapons violation or serious bodily injury, and the student could be removed to an interim alternate setting for up to 45 days. That said, there are major differences between the House and the Senate bills and they’ll have that worked out in Conference.

- There are new *data collection requirements* in both the House and the Senate, although primarily in the Senate. For example, they want information on incidences of disciplinary interactions and I didn’t write down the whole long list of things that are being required. Well, one is the incidence and the duration of disciplinary action by race/ethnicity standards and by disability category. There are other reporting requirements that are listed in the bill and we all know that there are new reporting requirements required by No Child Left Behind as well. No Child Left Behind, by the way, has an authorization for funding that was included to help states with faster developing of their information systems for all the new reporting requirements. But there is nothing in either the House or the Senate versions of IDEA that addresses the need to build or expand a state or a local school district’s information collection system and there is also no phase-in in either the House or the Senate. So the expectations seem to be that, well, today you are not collecting this data—tomorrow, you will be, and I guess you have to build your information collection system overnight because this bill allows any phase-in of those activities and essentially, I might point out, NCLB does have a phase-in for almost all of its requirements and IDEA doesn’t.
- There is some new language that was added on

before the Senate floor during debate. Senator Murray had an amendment that addressed *the provision of services for mobile families, particularly children who are from homeless families or the military and/or in foster care*. These are the children who move fairly frequently and the intention of the amendment was that if you have children coming into the school with an existing IEP, that to the extent that the school system can, it should provide services based on the existing IEP until such time as they can bring the IEP team together and if necessary, do a reevaluation for a reconsideration or redevelopment of their child’s IEP. That’s the intent of the amendment and that was attached to the Senate bill—similar language is not in the House bill. So that’s something that’s going to have to be worked on in the Conference. Senator Clinton offered an amendment on the Senate floor, this is a relatively minor amendment, by the way, Senator Murray’s amendment passed on a voice vote after Senator Clinton’s amendment that would add the Department of Education to an ongoing national children’s survey and I think that is really not controversial and should probably wind up in the final language because it’s hard to figure out why somebody would oppose that language.

- Finally, I have not talked about the changes, extensively—you know, there are *major changes in Part D*, for example, the state improvement grants will be targeted to personal prep issues only. There is major restructuring of Part D, which will send the research function to the new Research Institute within the Department of Education. So those are all issues that are changes in Part D that are likely to go into effect because they are in both the bills.
- I have saved the *funding issues* for last. There was an effort in both the House and the Senate to provide mandatory full funding for IDEA. It did not pass in either the House or the Senate. The difference between mandatory full funding and regular funding through the appropriations process is that, if it’s mandatory, it takes it off budget, which means it’s not subject to annual appropriation. We all know that sometimes Congress authorizes a spending level for a particular piece of legislation and then when it comes around to the appropriation, that it’s not the level that it is appropriated at. And you know, it has

a lot to do with the state of the budget and other politics that we won't go into today. There are concerns, primarily on the part of states, that the state set-aside caps will have a real, severe impact on the ability of the state to do all the new things that are being asked of them by both the House and Senate bills. They are capped at the inflation level and there is a major concern because the states use that money to provide additional staff support at the state level to work in cross-agency collaboration with other parts of state education agencies to do the monitoring and enforcement activities that are required. So there is some concern about that. As I mentioned earlier, there is no funding for the information systems to collect the new data that's being required.

So what happens next? We have a House bill and we have a Senate bill. They have to resolve the differences between the two versions before we can have a final vote or a final bill signed into law by the President. There was some talk that they are trying to get a pre-conference agreement in the Senate before they go forward. The work in the Senate was all done in a very bipartisan manner. Senator Kennedy who is a member of the Health Education and Labor Relations Committee worked very hard with Senator Greg who is the chairman of that Committee. There is some concern on the part of the Democrats, who are not the party in control of the Senate. Many of you have seen in the press that there has been a lot of concern on the part of Senator Daschle that they feel that the Democratic voice has not been heard in the conference committees. So they are treading lightly going into this conference. I think that's probably all we know at that this point. No conferees have been appointed by either the House or the Senate and that's something that has to happen before they can put together a conference committee. Once that happens, they will work out the differences between the two bills. When the conference committee issues its conference report, it will go back to the House and the Senate to be voted up or down. Things can always change.

There are usually no amendments allowed on a conference report. Let's say the Senate wanted to offer an amendment on a conference report. The House would have to vote on that amendment as well. Typically, conference reports are voted up or down. And if it's passed by both the House and the Senate, it then goes to the President who can sign it or veto it, of course, if he so chooses. If all of this does not happen by the time Congress adjourns for this year, the process starts all over again next year with the introduction of new bill because the bill cycle starts over with every new Congress. There will

be a new Congress starting in January of 2005. And once the bill gets signed, the Department will start working on regulations and again, we are guessing based on the work that this Administration has done with No Child Left Behind, that they will probably have some non-regulatory guidance as well. The timing for all this isn't set, it's all up in the air. It could happen real soon, there was a lot of momentum, I think, generated by the Senate finally getting around to passing the bill and whether or not that momentum will carry forward or not, we really can't say. I think it's important to know that there are very few legislative days left this year. It's an election year, Congress likes to adjourn early in an election year and it's just too hard to say whether they can get through this bill as well as they have all the appropriations bills that they have to do this year and several other major pieces of legislation coming up. So, timing is uncertain. David, I am through with my formal presentation here and I would be happy to get any questions that people might have, I know I went through that rather quickly.

Dr. Johnson: First, Nancy, I would just like to thank you for participating with us and sharing this information, that's a lot of information to get across here. I am going to turn to Donna Johnson who will facilitate the question and answer process.

Ms. Johnson: If you do have a question, please announce your name and the state from which you are calling before asking the question of Nancy. We will now open the teleconference for questions.

Ms. Yoder: Hi, I am Diane Yoder from Texas. Thank you, Nancy. It was very informative. I had a question about one of the changes in transition where you said that they are looking at focusing on age 14, does that limit transition services to students younger if it's needed because currently, I think, the law makes provisions that if the IEP team agrees, they can provide transition services to students younger than 14, so will that continue?

Ms. Reder: That's a good question. The Senate language says, beginning no later than the first IEP to be in effect when the child is 14, the House language is beginning at age 14. I don't think there is anything in there that would prevent you from starting earlier.

Mr. Migden: This is Stephen Migden from New York. By the way again, thank you, it was a really very comprehensive presentation. My question has to do with the elimination of the achievement aptitude discrepancy formulas for the identification of learning disabilities. Given that, what role do you see for careful comprehensive psycho-educational evaluations of students on an individual basis under the new law?

Ms. Reder: Well, this is not my area of expertise. So

I would probably suggest that you talk to other organizations like the National Association of Psychologists or the National Council on Learning Disability. First of all, the language in both the House and the Senate simply is providing school districts with another option. And you may recall that a couple of years ago, again when the commission was doing its work, Bob Pasternak who was the Assistant Secretary at the time, spoke very passionately about this subject, he was very concerned that using the discrepancy model was a wait-to-fail model and that students with learning disabilities—who, by the way, make up about half of the special education population—were being identified too late to get the support that they need. So, I think that the goal of trying to use other models is an effort to try and identify these students earlier. Now, on the one hand you have got the early intervening services as a tool that can be used to work with students before they get identified as needing special education services.

Mr. Migden: Thank you. By the way, I agree 100% that the aptitude achievement discrepancy model is a way for the student to fail and partly it does make some sense. I was just curious if you had any thoughts about what other models might make sense, and might be used under the new law.

Ms. Reder: There is a center that OSEP is funding, that Doug Fuchs is heading up, I am blanking on the exact name of the center, I don't know if anybody sitting here with me recalls the name of it. But you might want to talk to him.

Mr. Migden: Okay, there is so much research now, for example, in the role of early identification of dyslexia, for example, and that's certainly a model that would make sense to me.

Ms. Reder: I believe that's Doug Fuchs at Vanderbilt.

Mr. Migden: Okay, thank you very much.

Ms. Adler: Hello, this is Karen Adler from Missouri and I wondered if you could just clarify a little bit more of what is meant by personnel prep Part D and the focus on that in the improvement plan.

Ms. Reder: Oh well, I probably misspoke when I said just personnel prep. I think that it's partially both personnel prep and partially ongoing training for personnel. So it's probably both, but under the current law, State Improvement Grants or SIGs are used for improvement activities based on what the states identified in terms of their needs. In other words, they did a needs assessment and they were addressing those critical needs, which may have been partially related to personnel and partially related to other issues.

Mr. Smiley: This is Richard Smiley from Alaska. Nancy, regarding that risk pool, is it safe to assume that it

will be subject to the prohibition against the plan thing?

Ms. Reder: That's an excellent question that I think would have to be addressed in the regulations because there is nothing in the wording of the bill that addresses this issue as far as I know.

Ms. Simpson: This is Denise Simpson from Boyle, Kentucky. I have a question regarding identifying the right students at the right time. I work in the mental health field and was concerned about the students who carry a significant mental health diagnosis that affects their educational needs. And having that information at hand, would that affect them from being referred to special ed -- probably, they will be placed on some kind of a list and they will have some sort of preservice to keep them from getting special ed services.

Ms. Reder: No, I don't think so. The purpose of the early intervening is, I think, that there are some students that maybe need short-term services that would sort of get them over a hump in terms of -- you know, maybe they need short-term intensive services that would be the early intervening. But for a student who clearly falls into one of those identifiable categories of special education, there would be no reason to hold up going forward with developing an IEP.

Mr. Arnold: This is Art from Alaska. I wanted to just follow-up on Richard's question earlier about the risk pool. Can you explain the 40%, the 2% once more? I just didn't get it down.

Ms. Reder: Sure, the House language is optional, it says that you could use up to 40% of your state set-aside, although that seems like an extremely high amount of money, I can't imagine contributing that amount of money because your money is so limited to begin with, for an optional risk pool. The Senate language set is a mandatory 2% of your state Part B funding.

Mr. Arnold: Is that for all state funds or for all discretionary funds?

Ms. Reder: No, it's 2% of your state's Part B funds.

Mr. Arnold: Okay. Thank you.

Ms. Johnson: Anyone else? Okay. Well, I think, we have answered all their questions then. So with that, I would like to thank Nancy for sharing her time and expertise with us and if you are interested in learning more about transition, we would like you to join our Exiting Community of Practice. That website is www.tacomunities.org and our next Exiting Community teleconference is scheduled for Tuesday, June 29th at 2:00 Central Time and the topic is "Highly Qualified Teachers under No Child Left Behind." So thanks, everyone, for participating and again, thank you, Nancy.

Dr. Johnson: Thank you, Nancy.

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