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Anthony J. DeMatteo, Ph.D., President

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April 12th, 2004

Senator Edward Kennedy
317 Russell Senate Office Building
Washington, DC 20510

Dear Senator Kennedy,

On behalf of the Massachusetts Administrators for Special Education, we want to express great appreciation for the opportunity to meet with Connie Garner and Jeremy Buzzell on March 11th 2004 to review our concerns regarding IDEA/Reauthorization. It was a pleasure meeting with Connie and Jeremy who were extremely welcoming and responsive to our recommendations and questions. Indeed, we are most appreciative to have had the chance to meet personally with both and to have been afforded ample time to discuss issues of import.

In advance, thank you for the opportunity to provide you with written input regarding IDEA /reauthorization as a follow up to the meeting with your staff on March 11th, in Washington. The following information is presented on behalf of the Massachusetts Administrators for Special Education and is provided with the hope that it will be useful to you during Senate deliberations on the subject and for future use during Conference Committee activities.

The information is also presented to impart our priorities on the subject, though with the exception of #1- our top priority- these are presented in no particular order. We understand the issues of IDEA/ reauthorization to be of great magnitude, but will try to keep our comments brief. However, each item is of utmost import to the administration and supervision of Special Education(for LEA's) within the Commonwealth of Massachusetts. Here are our priority comments:

#1. Funding: Must be fully funded up to the 40% (federal requirement) if it is to be effective to serve all who are eligible for any level of Special Education services. We reject any

reauthorization that does not support full funding for mandated requirements / services. Unfunded mandates do not support effective service delivery and greatly hinder the effectiveness of any local school district to provide for those in its charge.

Further, funding must be set to appropriately enable individual towns and cities to administer and have control over spending for special education needs.

#2. Assessment Criteria: Must have criteria that support distinctions in assessment and evaluation for determining special education needs and eligibility requirements. This is needed to appropriately identify special education issues, provide accompanying special education services and support appropriate access to general education, all with the goal of meeting individual special education needs. While the proposed guidelines would support educational interventions, they simply do not respond to the complexity of special education needs/services of this population of students.

Currently, the discrepancy criteria have been taken away, therefore jeopardizing appropriate needs and services identification. Without proper guidelines and procedures to appropriately identify individual student special education needs/services, teams can not be effective. If this is not corrected, we run the risk of over identifying and under identifying needs and services based on subjective decision making. We do not know of any other discipline- either medicine, psychology, health or other- that supports eligibility without formal and objective criteria. We aim to be consistent and responsive within our own discipline by having carefully thought out criteria and guidelines, which properly support educational decisions and therefore sound and solid educational outcomes/interventions for special education students.

Further we must ensure that those who are trained and qualified in special education are afforded the opportunity to assess and evaluate students so they can ensure proper and effective diagnosis with commensurate interventions within the scope of the school /educational setting.

#3. Discipline: We strongly reject the notion that Special Education Students will be held to the same standard of discipline as non-disabled students, especially for students identified as having cognitive, communication and emotional disabilities. Surely, students with significant disabilities cannot be expected to esteem the same standard of discipline as those who are able. In doing so, we violate the standards and rights of the disabled student who must have accommodations and modifications. We request that students with disabilities be afforded a due process opportunity ensuring that their disability plays a role in the evaluation of their discipline, should the need arise.

#4. Functional Behavioral Assessment: We strongly and vehemently oppose the removal of this requirement in the review and assessment of students with disabilities regarding suspensions. We seek further study on the subject to ensure proper application and latitude. Functional Behavioral Assessment has provided teams with the opportunity to utilize formal and informal educational tools, ensuring proper identification based upon disability needs. Without this or an equivalent mechanism, arbitrary discipline decisions will be made, negatively impacting the educational outcome and achievement of many special education students. This is necessary in

the process of assessment and evaluation for this population until another proper tool can be determined by a group of qualified and trained educational specialists/psychologists representing school based thinking and expertise.

#5. Paper work: We strongly and urgently support any measure that reduces the amount of paper and processing while ensuring due process for students. We simply cannot continue as public and private special education approved facilities to spend time on paperwork that takes time away from on-task direct student intervention for eligible special education students. Teachers, specialists, school psychologists and administrators are unduly inundated with paper work that is simply not effective. We advocate for more teaching and intervention time for those in our charge, making certain that achievement is attained within each student's grasp and ability.

#6. FAPE: We strongly support the continuation of FAPE.

#7. Professional Development: Responsive and responsible schools must have professional development as part of a systemic and strategic plan, to support teachers, administrators and specialists in meeting new accountabilities for student achievement. Sufficient funding must be available to local school districts to meet the monetary and time needs of these Professional Development activities within the scope of the school day structure.

#8. Highly Qualified: We expect all special education teachers, regardless of educational level, to be certified, competent and accountable in their discipline, at all times during their teaching tenure. At the same time we are gravely concerned with the standards and associated time frames which fall under NCLB. Because these require multiple certifications for middle and secondary level teachers in domains other than special education and have unreasonable time frames, these regulations place undue hardship on special education teachers. Further, we are extremely concerned that school districts will be placed in untenable situations, if these issues are not addressed in a timely manner.

#9. Interagency Agreements: IDEA must have forceful language mandating shared fiscal responsibility and programmatic coordination with other federal and state agencies in the provision of IDEA-required services. Of particular note is the provision of alternative educational programs and settings for students under the disciplinary provisions of IDEA as well as for students in transition from school to work and adult living. Other federal and state agencies must provide services when needed and applicable, and IDEA needs a mechanism to require implementation by enforceable mandate. Furthermore, we support educational entitlements.

Related Issues Impacting Special Education:

1. Standards/Certifications and/ or Licensure for Advocates:

Lack of standards, certifications and licensure for persons who represent special education students and parents during the process of eligibility determination, program and service delivery and dispute resolution are a significant concern. Currently, there are no standardized requirements for persons, other than Attorneys, who represent themselves as advocates in special education decision-making activities. Yet they have full authority to advocate and influence special educational decisions without the necessary educational qualifications that every other member of a special education team must have. A recent survey of our statewide membership demonstrated resounding (83.33%) support for the standardization, certification and licensure for any persons sitting in an advocacy capacity on special education matters impacting students.

2. Special Education teacher recruitment and retention :

There is, and we foresee continuing in the future, a limited pool of special education teachers to fill special education teaching positions. The enormity of special education paperwork and the financial and emotional costs of special education litigation are having dramatic effects upon special education teacher recruitment and retention. We understand there to be dramatic drop in enrollment in graduate schools of education due to these issues as well.

While we expect written accountability, support and advocacy for due process, we also see the need for immediate remedies in special education by reducing the amount of required paperwork and litigation options for entitled special education students. We strongly believe that the integrity of the entitlement process can be maintained with less required paperwork and limits on litigation.

3. Municipal Medicaid Reimbursement: We feel strongly that Medicaid reimbursement monies should be mandated in whole or in part directly to school districts to serve special education students. Many students who are special education eligible are also Medicaid eligible. A formula creating Medicaid money for reimbursement for special education could assist local school districts in off-setting the excessive costs associated with special education services/programs.

Again, thank you for the opportunity to provide input into these matters and to Connie Garner and Jeremy for meeting with us. We are encouraged by the receptivity we received from Connie and Jeremy during our meeting on March 11th.

We remain available to answer any questions by telephone or to return to meet with you in Washington and are very appreciative of your support in this most important legislative matter. These notes are respectfully submitted, on behalf of the Massachusetts Administrators for Special Education (ASE) in an effort to gain greater capacity to serve eligible special education students within the Commonwealth.

Sincerely,
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cc; Senator Kennedy's Office:
Connie Garner, Disability and Special Needs Population Policy Advisory
Jeremy Buzzell
Senator John Kerry

**** The Massachusetts Administrators for Special Education (ASE), a subdivision of the National Council of Administrators of Special Education (CASE), is the only state professional organization within the Commonwealth representing practitioners in the delivery and administration of State and Federally funded programming within public schools. On-going professional development, advocacy, lobbyist and partnering activities with other state and national organizations are central to ASE's work regarding the implementation and administration of special education leadership to serve more fully eligible special education students. There are approximately 300 members and over 700 special education contacts across the Commonwealth supported by the 18 Executive Board members who are Regional Representatives from across the state.