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**TESTIMONY TO
JOINT LEGISLATIVE BUDGET HEARING
ELEMENTARY & SECONDARY EDUCATION
JANUARY 29, 2013**

Submitted by: Steven Sanders, Executive Director
ACTS (Agencies for Children's Therapy Services)

Chairman Farrell, Chairman DeFrancisco, Chairman Flanagan, Chairwoman Nolan and Members of this Joint Budget Committee:

Thank you very much for this opportunity to present testimony regarding the Governor's recommendations for education in his budget submission of last Tuesday.

My name is Steven Sanders. For 28 years I was a Member of this Legislature. Today I am the Executive Director for an organization called ACTS (Agencies for Children's Therapy Services). Among the programs that our 29 separate companies provide is special education to pre-school and school age children.

Public Education is always among the most important of issues facing the Legislature in the budget each year and not just because it consumes such a large percentage of the state's expenditures, but also because it deals with the single most important responsibility of government and that is to insure a future rich with potential and opportunities for the next generation. And that can only be accomplished through an effective delivery system of public education. The fate of our families and their children not to mention the success of our state in business, industry and services depends on a well-educated work force. A system of public education not only promotes each youngster's potential but also allows us to compete with other states and other countries for the jobs of the 21st century right here in New York State. That is why YOUR responsibilities to "get it right" each year is so critical.

I want to bring your attention to one particularly troubling proposal which would have a significant impact on the delivery of essential services for children with disabilities and the rights of their parents to insure that their children receive appropriate and effective special education help.

The Governor proposes to amend the State Education law, specifically sections 4402 and 4404 to allow laws that have been passed by this Legislature and your predecessors to be overturned not by amending the law but rather by an administrative decision of the Commissioner of Education upon the request of any given school district. This is a startling and dangerous shift in authority to establish public policy away from an elected Legislature to an appointed individual.

It is a sweeping power change that would cause one person in government to assume policymaking that for decades has been exercised by elected public officials. And quite frankly aside from the disenfranchisement of the Legislature it is clearly an attempt to win changes in policy that the Legislature has rejected in past years. In the guise of mandate relief this is an attempt to circumvent the Legislature. It should properly be rejected.

Section 4402 deals in large measure with the way in which an Individual Education Plan (IEP) is developed for each child. It defines who can participate in those decisions and the type of services that a child with disabilities needs. Since this section of law was established in 1976 it has been the subject of legislative amendments on no fewer than 100 times in those years. Obviously this is important to the Legislature, as it should be.

Section 4404 deals largely with the rights of parents to appeal decisions of their local school district when they believe that their child has not received the most appropriate placement or has not received critically needed services. A parent's right, in fact their duty, to advocate for their special needs child is critical to insuring that their children are given all the services that they are lawfully entitled to. If we are going to infringe on those important parental rights that have been promulgated in law it should only be done by a legislature elected and accountable to their constituents. It should NOT be an easy thing to deprive a parent of their rights and it certainly should not be decided behind the closed door of an office in an agency building.

If the Governor's proposals were adopted we would then have the unwelcome and bizarre situation whereby certain school districts had certain requirements for services to special needs children while others did not. We would have different policies in different districts and regions of the State based on the whims of one unelected person. Can you think of anything more unfair than that?

If there needs to be mandate relief for school districts, and if there needs to be a balancing of the rights of children and their parents to realize perceived savings for school districts it ought to be done carefully and consistently throughout the state as opposed to one set of rules in one district and another set of rules in an adjoining district or County. The Legislature has been, and still is, the proper body to make those decisions.

The Legislature should not abdicate important powers and decisions to the Executive branch of government or some State agency to make unilateral and arbitrary decisions especially as it relates to the most vulnerable students and families of our State. I urge you to reject this misguided proposal and retain the necessary checks and balances of our State government.

Thank you very much.