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*Testimony of
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*Written Testimony
Before the
Judiciary Committee*

Raised Bill #1056 'An Act Concerning Student's Right to Free Speech'

March 6, 2009

This testimony is submitted by the Connecticut Education Association in opposition to Raised Bill No. 1056 'An Act Concerning Student's Right to Free Speech'. The reason for our opposition is that the bill is unnecessary and, in addition, contains sections that are unclear and confusing.

Raised Bill No. 1056 'An Act Concerning Student's Right to Free Speech' is not necessary, since most of its subject matter has already been addressed through case law, specifically the decision of the Second Circuit Court of Appeals in Doninger v. Niehoff, 527 F.3d 41 (2nd Cir. 2008). Sections (b)(1) and (2) of the Raised Bill simply reiterate what the Court in Doninger defined as the types of speech that can be punished, that is, speech which causes "material and substantial disruption to the educational process" or speech which is "lewd or vulgar and occurs on school property or at a school sponsored function."

As mentioned above, certain sections are confusing. Subsections (c) and (d) appear to create a category of free speech police such as faculty advisors. Subsection (d) makes no sense. Under subsection (d), a "school employee" (a term that would include teachers, custodians, cafeteria workers) reports violations of the section "to a supervisor or competent authority, an affected student or such student's parent or guardian or the public." Subsection (d) is so confusing that it is impossible to figure out who is reporting a violation by whom and to whom.

Subsection (f) states that "any person aggrieved" by a violation of this section may seek an injunction and attorney fees. Does this mean a student against the school system? A student against a teacher? A teacher against a student? A teacher against the school system?

In sum, the Court in Doninger was clear, Raised Bill No. 1056 'An Act Concerning Student's Right to Free Speech' is not clear and not necessary.