

Learning Disabilities Association of Connecticut, Inc.

999 Asylum Avenue, Hartford, CT 06105 (860) 560-1711 Fax (860) 560-1750

A Non-Profit Agency Serving Families of Children with Disabilities Since 1962

Testimony of Diane Willcutts, 195 Auburn Road, West Hartford, CT 06119
Secretary of the Board of Directors, Learning Disabilities Association of Connecticut (LDA-CT)
Email: Diane@ed-advocacy.com.
Phone: (860) 256-4186

LDA-CT is a nonprofit parent organization, and we work with families of children with disabilities, providing training support to help them navigate the overwhelming special education process.

My testimony is in opposition to **SB 1142, AN ACT CONCERNING RELIEF OF STATE MANDATES ON SCHOOL DISTRICTS.**

LDA-CT strongly opposes revisions to in-school suspension and burden of proof regulations.

- I. Regarding, in-school suspensions, this bill seeks to delay the implementation of a prohibition on out-of-school suspensions that would apply to all but the most serious offenses.

- a. Since the regulation states that "all suspensions must be in-school suspensions," school staff and others have misinterpreted the regulation to mean that schools are required to provide in-school suspensions. This is not true. In fact, schools are not required to use suspensions at all.

Schools have access to alternative means of discipline, such as detentions, which would be far less costly to implement and which do not result in students missing school.

- b. Connecticut's 2007-2008 school discipline data shows that our schools implemented over 120,000 out-of-school suspensions last year. Over 40,000 of those were described as school policy violations and not due to serious violations such as weapons, drugs, fighting, etc. The state data also indicates that approximately 10,000 of these out-of-school suspensions were related to attendance, truancy, leaving school grounds, failure to attend in-school suspensions/detentions, tardiness, and leaving class without permission.

Another major problem is that students with disabilities and minority students are much more likely to receive out-of-school suspensions for the same offenses than the general student population.

- c. We know that suspensions are not effective in changing student behavior.

Arguably, out-of-school suspensions reward students for poor behavior, enabling them to take a day or more off from school.

If parents regularly punished children by keeping them out of school, we would call this "educational neglect."

- d. If you are interested in more information, Connecticut's discipline data can be found on-line at: <http://www.csde.state.ct.us/public/cedar/cedar/discipline/index.htm>

- II. It is troubling that SB 1142 seeks to change the **burden of proof** in special education due process hearings to be on the party requesting the hearing.

- a. The "party requesting the hearing" is nearly always the parent of a child with disabilities. The reason for this is that school districts very rarely need to file for hearings because, when there is a disagreement, the school district's program goes into effect unless the parent files for a hearing.

- b. Connecticut State regulations require that, in a special education due process hearing, school districts have the burden of proving the appropriateness of the child's program. This is for good reason, as it is the school district, not the parent, who is responsible for ensuring the educational program is appropriate.

Under federal EDGAR requirements (34 CFR §76.731), school districts already need to maintain records to show compliance with IDEA, and this includes records demonstrating that the child's IEP is appropriate.

And of course, it is school districts, not parents, who have immediate and unlimited access to all the information about the child's program.

- c. In due process hearings, parents are at a significant disadvantage for additional reasons.
 - i. School districts have access to their own paid staff to serve as expert witnesses in the hearings. In contrast, parents have to pay out-of-pocket for any expert witnesses that they would need in their hearing. The vast majority of parents cannot afford to spend the thousands of dollars required to pay expert witnesses.
 - ii. Further, as a result of a Supreme Court decision, parents do not receive reimbursement for expert fees, even if they prevail in the hearing.
 - iii. School districts typically rely on legal counsel in due process hearings, whose thousands of dollars in fees are paid for by tax dollars.
 - iv. Unlike schools, the vast majority of parents cannot afford to pay attorneys, not receiving public money to pay for legal fees up front. As a result, most parents have no access to legal assistance to help them navigate the complicated and overwhelming hearing system.
 - v. Parents without attorneys prevail in only 10% of hearings, and clearly there is a problem with access to the process.
 - vi. Overall, there is no question that districts are in a better position to defend the appropriateness of the IEP than parents are to prove that the program is inappropriate.
- d. Parents are experts on their children and only a tiny percentage ever file for hearings, even when their child's school program is clearly inappropriate.
 - i. The vast majority of students receiving special education services are capable of progressing with their classmates, provided they receive reasonable support, and are capable of successfully graduating high school, attending college, and obtaining meaningful employment.
 - ii. When schools fail students with disabilities, our children are at increased risk for terrible outcomes, such as expulsion, entering the juvenile justice system, depression, committing suicide, dropping out of school, and more.
 - iii. Before parents file for hearings, most have spent years trying to work with their schools but keep hitting barriers, due to an imbalance of power. Parents spend years watching their children suffer, falling further and further behind their classmates. Going to a due process hearing is a last resort.
 - iv. For the sake of Connecticut students, we need to make this process more accessible to parents, not provide more barriers.