

Amanda Tellier
41 Redwood Drive
Bristol, CT 06010
(860) 584-5757, telliera@sbcglobal.net

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Education Committee, Testimony regarding Raised House Bill No. 5425

- **Support Section 2** which requires school districts to hire qualified professionals to provide behavior analysis when included in a child's Individualized Education Plan
- **Oppose Section 3** which proposes placing the burden of proof in a Due Process Hearing to the party who asked for the hearing.

Senator Gaffey, Representative Fleishmann, and Members of the Education Committee:

I am here to offer personal testimony in support of HB 5425, Section 2 while strongly opposing Section 3.

First, let me comment on why you should support Section 2. I am the parent of a child with Asperger's Syndrome and ADHD. I consider this a full-time job because, despite the joys of this role, it is incredibly stressful and requires me to have qualifications unmatched in any field. To prepare for this job I have taken graduate level course work in special education, attended countless conferences and workshops, read books and journal articles on everything from brain development to social skill strategies to behavior modification. At the same time, I have had to develop knowledge about props from the Ghostbusters movies, the many uses of Bondo, strategies for customizing vintage VW beetle engines, and any other current interest to take over my son Caleb's thought processes. However, all this knowledge *does not* make me qualified to oversee applied behavior analysis services. For the past two years, what I *have not* had to do is teach my son how to sit for more than a few minutes at a desk, or teach him how to add exponents, or teach him how to develop and test a hypothesis, or teach him how to find the main point in a paragraph. I *have not* had to scramble to find childcare so I can go to my other full-time job while my son is isolated at home after being suspended for misunderstood behaviors that manifest from his disabilities. I don't have to do these things because Caleb is now in a program that values using research based methods of behavior analysis, overseen by a Board Certified Behavior Analyst *who is qualified* to oversee behavior analysis services.

Is it so much to ask that school districts employ properly qualified staff to provide or oversee services included in a child's IEP?

I'd also like to comment on why Section 3 should be removed from this bill. It was not an easy road getting to where we are in Caleb's current educational program and one that many families struggle to navigate. Like most families, pursuing due process was not a decision we took lightly. Throughout the lengthy and complicated legal process, my family incurred tens of thousands of dollars in attorney fees and expert witness fees. Although we prevailed, and regained most of the allowable attorney fees, it was a great financial and emotional burden that already deters many families from using the system to advocate for their children. Section 3 proposes shifting the burden of proof in special education due process hearings from the school district to the party requesting the hearing, which in almost all cases is the parent. This unnecessary change would put families at an even

greater disadvantage since school districts already possess the information and expertise regarding a child's IEP. If school districts do not have the burden of proof, I fear they will be less inclined to cooperate with parents to negotiate an appropriate program and services for the child. Districts may opt to restrict services and "draw a line in the sand" requiring parents no option but to pursue due process knowing that the parent will have the burden of proof. This will be especially true as school budgets get tighter and tighter. The result will be an increase in due process hearings for those families who can afford it or a decrease in quality education for those who cannot. Either is unacceptable.

Parents may never be on an even playing field with school administrators, teachers, special service providers, and consulting staff. At the very least, we should be able to expect that our schools use evidence based practices provided by properly qualified staff as the law requires. School districts are responsible for educating our children and should be held accountable to prove their programs are appropriate when in dispute. Please remove section 3 from raised HB 5425 and please support the important provisions of Section 2 that will ensure that our children receive behavior analysis from qualified professionals.

Thank you.