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March 8, 2010

Attention: Sen. Thomas P. Gaffey and Rep. Andrew M. Fleischmann

Re: Raised H.B. No. 5425, Session Year 2010

Emailed to [chris.calabrese@cga.ct.gov](mailto:chris.calabrese@cga.ct.gov) and also sent via first class mail

Dear Sen. Gaffey, Rep. Fleischmann, and the Education Committee members,

I am a an attorney in Connecticut concentrating solely on special education and disability rights law, as well as a prior special education teacher. Please accept this letter as testimony for my support of Section 2, and opposition to Section 3 of H.B. No. 5425: *AN ACT CONCERNING SPECIAL EDUCATION*. I will address both issues raised in this bill and note the grave impact they will have on students with disabilities in Connecticut, as follows:

**Section 2 of H.B. No. 5425**

The IDEA mandates that public schools use evidence based practices for students receiving special education services. Studies show that applied behavior analysis (ABA) improves outcomes of individuals with autism. It is reasonable to conclude that it will affect the integrity of these programs if we do not insure delivery by trained and qualified staff. Hence, the individuals who use ABA with our students require proper training.

**Section 3 of H.B. No. 5425**

The Burden of Proof must not be changed. Connecticut must keep the burden of proof on the school district, the party who is obliged to provide a free

and appropriate public education. The school district has control of the student's educational record and controls the flow of information between the school and the parent. If the burden of proof shifts it will allow the school districts to stop the communication and documentation that the parent requires to make their case. The imbalance of power between the district and the parents supports placing the burden of proof with the school district based on the fundamental principles of fairness. Practically speaking, it is almost always the parents who initiate due process because the school district is unable or unwilling to provide the necessary services. A change in this law would place an onerous burden on families to prove that the program is not appropriate, and shifts the balance in an already unbalanced process.

Thank you very much for your consideration of this point of view, which I believe represents that of my clients and fellow advocates of students with disabilities in Connecticut. I implore you not to change the current regulations in Connecticut in connection with burden of proof and ask that properly trained staff is required to work with students with Autism.

Respectfully yours,

Nora A. Belanger, Esq.

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