STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Education Committee

Presented by: James D. McGaughey
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March 7, 2011

Good morning and thank you for this opportunity to comment on several of the bills on your agenda today, specifically **RB No. 1105, AAC Special Education,** and **RB No. 6501, AAC Delays in the Evaluation and Determination Process for Students Suspected of Requiring Special Education Services**.

For those of you who are not familiar with our Office, we are a small, independent safeguarding agency that operates pursuant to both State and federal statutory mandates to investigate abuse; pursue legal and administrative remedies on behalf of people who are experiencing disability-based discrimination; and inform, advise and help empower people with disabilities about how to exercise of their rights. Every year we receive hundreds of requests for assistance from parents of children with disabilities that affect their educations. My comments on these bills reflect our experience advising and representing those families.

With the reservations noted below concerning Section 2, our Office generally supports the amendments to special education statutes proposed in **R.B. No. 1105.** This measure attempts to clarify current statutory provisions regarding the qualifications of personnel assigned to provide and supervise certain behavioral support services to students whose teams recommend those services, and also clarifies that "nexus" school districts that are responsible for funding education services for children who are placed out-of-home can qualify for excess cost grants. We are especially pleased to note and urge support for the provisions in Section 5, which establishes a Lead Poisoning Prevention and Treatment Stakeholder Committee that would explicitly include and direct the State Department of Education to work with other entities and programs in efforts to address the effects of childhood lead poisoning.

Despite progress in the war on early childhood lead poisoning, it remains a significant cause of cognitive and behavioral problems. While the damage lead causes to developing nervous systems is often permanent, there are a number of educational strategies that can help children to compensate and acquire adaptive skills – but only if the problems are identified and remedial efforts begun in timely fashion. Many people think the problem of early childhood lead poisoning has been solved – that removing lead from motor fuels, along with newer screening requirements, lead abatement codes and various remediation and health education programs have solved the problem. I used to think that too. But the fact is that hundreds of kids are identified as having Elevated Blood Lead Levels every year in Connecticut. Much of our housing stock is

old, and, over the past few years incontrovertible scientific evidence has emerged showing that what we used to consider as insignificant blood lead levels are, in fact, extremely detrimental to cognitive development and behavioral health. Some studies suggest that as many as 10% of young people who become involved in the juvenile justice system have been lead poisoned. So it is important that schools understand the effects of lead poisoning and be prepared to provide relevant educational programming to its victims. The Stakeholder Committee and guidelines called for in Section 5 will help achieve this.

As mentioned above, we have concerns regarding Section 2(a)(2) of this bill. Lines 98 through 110 remove existing language which directs a local or regional education authority to request a due process hearing in the event a PPT proposes to privately place a student and the parents refuse to give consent for the placement. The "statement of purpose" attached to the bill interprets this language as intending to "eliminate the requirement that parental consent be secured when a planning and placement team recommends a private school placement for a child eligible for special education". While it is not entirely clear that removing a statutory requirement that districts seek due process hearings when parents refuse to consent to a private placement means that those districts could then simply proceed with those placements, the current language acts as a safeguard against precipitous, unilateral decisions by school districts to place children into segregated, out-of-district placements. I urge you to leave that safeguard in place.

R.B. 6501 clarifies the responsibility of school districts to promptly pursue consent for relevant evaluations whenever it is suspected that a child requires special education and related services. The need for clarification on this point arises out of federal requirements that an individual child's Response to Intervention (RTI) be considered in determining the need for special education. The theory behind RTI is that children who are struggling may sufficiently benefit from more intensive educational intervention strategies so as to make a referral for special education services unnecessary. Sometimes they do so benefit, although I suspect that fact speaks more to the paucity of educational approaches to which they have been previously exposed than to the RTI requirement. There are a number of learning problems, however, that cannot be overcome without very specific supportive interventions – interventions that fall well outside the typical range of RTI strategies. For instance, a child who has phonological processing problems due to a neurologically-based inability to discriminate between certain syllable sounds may need access to auditory discrimination programming. Putting that child through six or nine months of RTI only puts him or her further behind, contributing to his or her frustration with school and a sense of failure that further harms self esteem. This bill clarifies that RTI cannot be used as an excuse for delaying evaluation and identification processes when there is reason to believe a student needs more. I urge you to support it.

Thank you for your attention. If there are any questions, I will try to answer them.