



# STATE OF CONNECTICUT

OFFICE OF PROTECTION AND ADVOCACY FOR  
PERSONS WITH DISABILITIES  
60B WESTON STREET, HARTFORD, CT 06120-1551

JAMES D. McGAUGHEY  
Executive Director

Phone: 1/860-297-4307  
Confidential Fax: 1/860-297-4305

Testimony of the Office of Protection and Advocacy for Persons with Disabilities  
Before the Education Committee

Presented by: James D. McGaughey  
Executive Director  
March 5, 2012

Thank you for this opportunity to comment on two of the bills on your agenda today: **Raised Bill No. 5357, An Act Concerning a Deaf Child Bill of Rights; and Raised Bill No. 5353, An Act Concerning Individualized Education Programs and Other Issues Relating to Special Education**

**R.B. 5357** would require that the IEP developed for each child who is identified as deaf or hard of hearing include a language and communication plan for that child, and, further, that that plan consider key questions and make explicit certain concrete details that are essential to understanding and meeting the individual needs of that child. As statutory proposals go, this is a relatively short piece of legislation. But, for a deaf or hard of hearing student, the considerations it describes can spell the difference between a tortuous and ultimately failed educational experience, and one that affords an opportunity to learn and grow - to acquire the knowledge, skills and intellectual discipline that will enable that student to participate in and successfully contribute to the world.

I believe the Committee is already aware of the dismal "achievement gap" statistics reported for deaf students - the much higher percentages of deaf and hard of hearing students who test well below minimal achievement levels on the CMTs and CAPTs than other students. Our Office has represented some of those students, usually after they have left school and are seeking or struggling to retain some kind of employment. In many cases these individuals have exited school reading at a third or fourth grade level, and are simply not prepared for the literacy requirements of the workplace. Why? Because they have been denied access to effective communication at the schoolhouse door. Part of the problem is that the number of such students is relatively small, so they attract little notice. The other part of the problem is that, many times, their language-learning needs are not well understood by educators, and sometimes not even by their parents. (Most deaf and hard of hearing children are born to hearing parents, many of whom are not aware of, or who do not have the resources to meet, the full communication and language-learning needs of their children.)

Unfortunately, neither the Federal Individuals with Disabilities Education Act, nor State special education laws currently require adequate consideration of the communications and language acquisition needs of students who are deaf and hard of hearing. The generic, individualized special education planning process simply does not have the guideposts and prompts necessary to ensure these vitally important issues will be given the weight they are due.

Virtually all scholars who have studied human development agree that language acquisition is vitally important for all subsequent learning. There are many ways to provide children who are deaf or hearing impaired with language-rich educational environments, and the best of these recognize that “incidental learning” – the learning that children do as they informally observe others communicating and by interacting with their peers – is at least as powerful a source of teaching as formal instruction. Deaf and hard of hearing students who are given the opportunity to develop their communication skills can also master English literacy skills, and, with that mastery can reach the same heights of academic achievement and societal contribution as any other students. But, early in their educational careers, attention needs to be paid to their particular mode of communication, their language learning needs, and their individual learning styles. The approach taken in this bill – one which requires an individualized assessment by people who are competent to do that assessment, and which recognizes the importance of explicitly planning to meet the particular needs of that individual child – is certainly preferable to a “categorical”, one-size-fits-all approach. It is an approach that is fully compatible with the special education planning process, and, in fact, simply assures that the Individual Educational Plan developed for that child will be well informed and much more likely to be successful.

There is a reason this Bill is being called a “Bill of Rights” for deaf and hard of hearing children. Passing it will ensure that deaf and hard of hearing students have equal access to the right that each Connecticut student is supposed to have – the right to a public education. The Bill will go a long way toward ending the shameful achievement gap that is consigning so many deaf and hard of hearing children to a life of low expectations. I urge you to support it.

**R. B. No. 5353**, An Act Concerning Individualized Education Programs and Other Issues Relating to Special Education, adds some useful clarifications to the statutes that describe Individualized Education Programs (IEPs). For the most part, these are “best practices”, already followed in many districts. For instance, providing parents with copies of relevant evaluations prior to PPT meetings, affording an opportunity to meet and discuss the results of such evaluations prior to a Planning and Placement Team meeting where the question of a student’s eligibility for special education and related services will be discussed, and providing parents with copies of any guidance documents that the State Department of Education may have developed regarding the identification and education of students with the particular disability or exceptionality manifested by their child, are all good practices that should be reflected in law.

However, there are several other IEP-related problems I wish the Bill addressed. More specifically, Section 1 very slightly modifies the current requirement that school districts inform parents about state laws and regulations regarding the use of restraint and seclusion. This requirement is currently being met by providing parents with a copy of a tri-fold pamphlet that has been developed by the State Department of Education. In line with the statutory requirements added by Public Act 07-147, the pamphlet discusses the school’s obligation to notify parents whenever a student with a disability has been subjected to restraint and seclusion. However, responses to a recent survey conducted by the

Bureau of Special Education indicated that public schools only notified parents as required by the law 85.1% of the time, and that Regional Education Service Centers – where students are more likely to experience restraint and seclusion - only notified parents 42.2% of the time.

Given that schools seem to be having such a hard time following the law regarding parental notification, I would suggest that language be added to Section 1 of the Bill to the effect that the information given to parents at the initial PPT meeting regarding the use of restraint and seclusion include specific directions about how to file a complaint with the State Department of Education if they learn that their school district has failed to inform them about an incident when their son or daughter has been restrained or secluded. I would further suggest that you require that the information given to parents inform them that the planned use of seclusion as a component of a student's behavioral plan is not considered to be "evidence-based practice", and that many experts view the planned use of involuntary seclusion as unnecessary, counter-productive, traumatizing and potentially dangerous. The pamphlet currently provided to parents explains that if they disagree with a PPT's recommendation regarding the planned use of seclusion, they can request a due process hearing. I would also suggest that parents be informed that they can contact the Connecticut Parent Advocacy Center and/or our Office to discuss any concerns they may have regarding the use of restraint or seclusion with knowledgeable advocates.

Of course, from my perspective as an advocate, it would be preferable to simply amend this bill to eliminate provisions in current statute that allow IEPs to include the planned use of seclusion as a behavioral intervention. A number of states have banned its use as a planned component of education and treatment plans, and several have even banned its use altogether – whether as a planned or as an emergency intervention.

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