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TESTIMONY OF CHRISTINA D. GHIO
IN **OPPOSITION** TO
RAISED BILL NO. 5552 AN ACT CONCERNING SPECIAL EDUCATION
March 3, 2016

Representative Fleischmann, Senator Slossberg, and members of the Education Committee. I am here to testify in opposition to Raised Bill No. 5552, An Act Concerning Special Education. My name is Christina Ghio. I am an attorney with a solo law practice in Cheshire, Connecticut. I represent the parents of children with disabilities in special education cases. Before starting my private practice, I was an Assistant Child Advocate at the Office of the Child Advocate, and, prior to that, the Director of the Child Abuse Project at the Center for Children's Advocacy. I've spent many years advocating for children, both by representing individuals and by looking at our state systems from a policy level.

I oppose Raised Bill No. 5552 because it does nothing to improve the existing process, erects barriers to speedy resolution, and will increase costs to parents and Boards of Education.

We currently have a process for resolving disputes about the special education needs of children. When parents do not agree with the education plan adopted by their school, the parent can request a due process hearing. This is an administrative hearing process through the State Department of Education. Once this request is made, the school is required to schedule a meeting (called a resolution session) with the parents to try to resolve the dispute. Parents and Boards can, and frequently do, agree to mediation to attempt to find a mutually agreeable resolution. Most often, agreements are reached prior to a hearing, either through mediation or discussions between the parties. Very few cases proceed to a full hearing. When they do, it is usually because there is strong disagreement between the two parties and the need for full presentation to the evidence. When a due process hearing is held, the decision is final and either party can appeal by filing a civil action in either state or federal court.

Raised Bill No. 5552 adds what the bill calls an "adjudicative process" to this process. Under the bill, an "adjudication" would be required **before** the parent can even file their request for a due process hearing. The "adjudication" is held in front of an "adjudicator" and can last up to two days. The "adjudicator" would then issue findings of fact and recommendations. The parties are then free to reject the recommendations of the "adjudicator" and request a due process hearing. The "findings and recommendations" made by the "adjudicator" can then be presented as evidence at the due process hearing.

To be frank, this makes absolutely no sense. It simply **adds a mandatory mini-hearing** to the process. **It makes the process more burdensome, more lengthy, and more expensive without improving outcomes.**

It is important for the Committee to know that due process hearings are required by the federal Individuals with Disabilities Education Act (IDEA). It is the federally proscribed process for resolving disputes between school districts and parents. It includes timelines for resolving the case and is similar to administrative hearings conducted by other state agencies.

It is also important to know that the law already creates opportunities for resolving the dispute without the need for a full hearing. IDEA requires a "resolution session" to attempt to resolve disputes. IDEA requires that mediation be available, as long as it is voluntary and does not delay the due process hearing.

In addition, in Connecticut, the regulations create an advisory opinion process, which is essentially an abbreviated hearing that the parties can agree to participate in. In the advisory opinion process, the hearing officer would listen to evidence presented in a one day hearing, offer an opinion orally on the same day, and facilitate settlement discussions between the parties.

As you consider this bill, please ask yourself how does Raised Bill No. 5552 improve upon this existing process? What is its impact?

Does it streamline the existing process? No. It makes it longer, by creating a mandatory mini-hearing before the federally required due process hearing process.

Does it save money? No. Instead, it is likely to cost money for both local school districts and parents, because it adds a mandatory mini-hearing that both parties are forced to participate in. The result of this mandatory mini-hearing is a recommendation which the parties can reject.

Does it improve outcomes? No. There is no evidence that it would improve outcomes for schools or parents. There is nothing to indicate that the "adjudicator" would be any more skilled than the hearing officers or that the decisions would somehow be better. The "adjudicator" would hear less evidence than hearing officers do because the "adjudication" is time limited.

The only impact of this bill is to stymie parents who are trying to get appropriate educational services for their children.

Lastly, I want you to consider that the mandatory mini-hearing created by this bill, if passed, will be challenged in court. It is a violation of IDEA's procedural safeguards, which require that due process be available to parents who disagree with the actions of their school. The state can't erect barriers that delay access to those procedures. I urge you to oppose this bill.