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The Testimony of the Connecticut Parent Advocacy Center

Good Morning Co-chairs Fleischman, and Slossberg, Ranking members Lavielle and Boucher, Vice Chairs, and members of the Committee. My name is John Flanders and I am here as the Executive Director of the Connecticut Parent Advocacy Center, commonly known in the state as CPAC. CPAC is Connecticut's Parent Training and Information Center (PTI). The Individuals with Disabilities Education Act, IDEA, calls for each state to have a PTI to give parents free support and information on how to make the most of their child's education, and to support groups, educational specialists, local Boards of Education, and other local, state and national resources. In any given year we field between three and four thousand calls from parents seeking help so their children can receive appropriate educations. We conduct dozens of training seminars for educators as well as parents, and consult with the full range of educational authorities including Birth to Three and the State Department of Education's Bureau of Special Education.

On behalf of CPAC I am here to express our strong opposition to HB 5552. We believe this bill will violate the rights of parents to appropriately utilize the dispute resolution provisions of the IDEA. It will add an unnecessary layer for them to navigate and will ultimately help neither child nor school.

The flaws in this legislation are numerous and very serious. To begin it explicitly limits the rights of parents to request a due process hearing by placing a requirement that must be met prior to requesting such a hearing.

It also inhibits local Boards of Education from performing their responsibilities in the event that a parent requests an Independent Educational Evaluation (IEE). Section 300.502(b)(2) of the Federal IDEA regulations require. If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--

(I) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Sec. Sec. 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

HB 5552 would necessarily impose an unlawful delay in this process

The bill requires the parties to agree on an “adjudicator” who has “significant experience and expertise in the fields and areas significant to the review of the special educational needs of the child or pupil” at best, this is extremely vague, and appears to place preference on an educator or perhaps a specialist in one of the services provided for children with disabilities. However it says nothing about the adjudicator’s ability to conduct a hearing, or, more important, to protect the rights of the families. Since the parties are free to choose, a person there is no guarantee that he or she would have any training whatsoever. And in the event that the State Department of Education is required to appoint an adjudicator it would need to conduct investigation to determine what needs the child faces, further delaying the process.

Nor will the process likely save the families any money. Since the bill specifically requires that the records of the adjudication be available to a subsequent hearing officer, parents would be in danger of having inadvertent statements, incorrect information, or opinions damaging to their child’s needs entered into the record of a subsequent due process hearing. Consequently they would need to have a trained legal professional participate in the adjudication to protect their ability to engage in an effective due process.

The serious and manifest flaws in this legislation fill CPAC with great concern and we believe are more than sufficient grounds for the Committee to issue an unfavorable review.

However, despite its multiplicity of flaws it seems clear to CPAC that the intention behind the introduction of HB 5552 was benign. When disputes arise the process of achieving an appropriate education can be expensive, time consuming emotionally damaging and the wreck of a family’s ability to work with the people who have the responsibility to educate their child. Any changes that reduce these challenges even a little is a noble goal. However, if that is the Legislature’s intention there are far better ways to accomplish it.

CPAC takes the position that the State could improve the process by simply adding some muscle, and some teeth, to the existing elements. We note that there must be some success in this already since only a tiny percentage of due process hearing requests result in a decision by a hearing officer. In the vast majority of cases the parties do find a ground that they can both live with. Our hope is to find ways to use the existing mechanisms to make those agreements easier and more responsive.

So, what to do. To start; improve education and awareness. CPAC conducts dozens of training sessions for parents and professionals. But there are 169 towns and roughly 60,000 students in special education. The resources available do not allow anyone to reach everyone who needs to know more. We encourage the state to provide resources for more training and incentives for both parents and schools to receive education that includes a clear view of the needs of all the participants in the process.

Second, improve the existing mechanisms. Many problems could probably be resolved through the Bureau of Special Education’s complaint process. In depth investigations by trained, impartial professionals could shortstop many problems. But the Bureau remains understaffed and underfunded, and inadequately transparent. CPAC is working with the Bureau and legal professionals begun a program to ensure the information about parent filed complaints is

available to the public. We believe this availability as well as sufficient resources to achieve the best investigation of complaints will greatly benefit our children

Improve the mediation process. It is clear that the Bureau of Special Education Staff members who conduct mediation are professional and eager to help find mutually acceptable solutions to disputes between parents and their schools. But mediation is not their primary responsibility. Most of those who conduct mediation have substantial responsibilities in the Bureau. Nor is it their primary area of expertise. They are clearly trained, but mediation remains a secondary, or even tertiary area of expertise for them. Connecticut has an active and well-trained community of dispute resolution professionals. We need to know if bringing in their experience would help families.

Finally, help must be found for those families who face serious disputes but lack the resources to be able to find the help they need. With a due process hearing costing thousands of dollars in fees for expert opinion and legal representation many, if not most, families are in no position to effectively pursue the mechanisms to preserve their children's rights. More support for these families is vital.

On behalf of CPAC I want to thank the Committee for its efforts to improve the process of obtaining an appropriate education for children with disabilities. While we strongly urge that you do not try to use HB 5552 as a solution, we look forward to working with you to find and implement useful and effective solutions. We are, at any time available to provide information or answer questions and I encourage members to contact CPAC at 860-739-3089 at any time.

Thank you for your attention.

John M. Flanders
Executive Director