

# Center for *Children's* Advocacy

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## Testimony of the Center for Children's Advocacy in Opposition to Raised S.B. 5552: An Act Concerning Special Education

Committee on Education

March 7, 2016

Senator Slossberg, Representative Fleischman, Senator Winfield, Representative Sanchez, and Distinguished Members of the Education Committee:

My name is Caitlin Rauchle and I am a legal intern at the Center for Children's Advocacy, a public-interest law firm representing Connecticut's most at-risk youth. We submit this testimony in opposition to Raised Bill 5552, which we believe contravenes federal law, is unnecessary in light of existing alternatives, increases costs to both families and schools alike, and ultimately delays the provision of necessary services for children with special education needs.

### **1. This bill is in opposition to the Individuals with Disabilities Education Act (IDEA).**

One of the primary tenets of IDEA is a parent's right to participate in the educational decision-making for her child. A hallmark feature of this right is the right to request a Due Process Hearing<sup>1</sup> when a parent disagrees with a school's decision about her child's education. Putting an additional "adjudicatory process" requirement delays a parent's access to the entitled Due Process Hearing. This impedes the most powerful mechanism a parent has to seeking a remedy for a disagreement about her child's special educational rights.

### **2. Alternative to Due Process Hearings already exist; the additional step created by 5552 is unnecessary.**

Parties already have the opportunity to resolve the dispute through a resolution session or mediation prior to the commencement of a Due Process Hearing. Outside of the Due Process Hearing process, there is also a complaint resolution process offered by the State Department of Education<sup>2</sup>, wherein the agency investigates written complaints and issues findings. All of these options, which are in accord with IDEA, provide a variety of channels through which a party may seek redress. The proposed option of 5552 is superfluous, and duplicative of procedures already available.

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<sup>1</sup> INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS FOR 1997, PL 105-17, 20 USCS § 1415(f).

<sup>2</sup> Conn. St. Dep't Educ. Bureau Special Educ., *Complaint Resolution Process* (Dec. 2011). See also 34 CFR 300.151 (Adoption of State Complaint Procedures), 34 CFR 300.507 (Filing a Due Process Complaint), 34 CFR 300.511 (Impartial Due Process Hearing), and Conn. Gen. Stat. § 10-76h (Special Education Hearing and Review Procedure. Mediation Disputes).

**3. This bill will cost families and schools more money.**

Both parents and boards of education would incur additional costs to participate in this “adjudicatory process,” which ultimately results in nothing stronger than a “recommendation” by the “third-party adjudicator,” which can be rejected by either party. This result is not very useful, especially in light of the negative consequences resulting from such process. Further, many parents would be dissuaded from exercising their rights to a Due Process Hearing because of the increased cost to retain counsel for the extended period created by this bill. In particular, this would create an undue burden and disadvantage to families who cannot afford counsel at all.

**4. This bill will delay the outcome of conflicts between families and schools; ultimately delaying the potential provision of services for children with special education needs.**

Unsurprisingly, many of the conflicts between parents and schools are about the level of service necessary to meet the standard of a “free, appropriate, public education” for a child with special education needs. Oftentimes, a parent is requesting additional services or placement that a school district is refusing to provide. When a parent prevails in her complaint process, her child will ultimately receive additional services, which are required for her to make educational progress. By delaying the hearing process, we are delaying the provision of these services, services that a child desperately needs.

Further, immediate access to Due Process hearings is critical, as certain procedural timelines and protections are actuated when such a request is initiated, such as “stay put,” which entitles the child to remain in the then-current educational placement during the pendency of any proceedings<sup>3</sup>, which would not be triggered by an “adjudicatory hearing.”

Raised Bill 5552 violates federal law, is unnecessary given that alternatives to Due Process hearings exist, will be costly for schools and parents alike, and will delay services for children with special education needs. If the Education Committee wants to protect the rights of special education students, this bill should not advance. Thank you for this opportunity to testify.

Respectfully submitted,

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<sup>3</sup> INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS FOR 1997, PL 105–17, 20 USCS § 1415(j).