

Dear Senator Slossberg, Representative Fleischmann and Members of the Education Committee,

I am writing in my capacity as an attorney practicing in the area of special education law for over thirty years representing children with disabilities and their families in special education matters including Dyslexia and other learning challenges. I have a state-wide law practice and I reside in the Town of Guilford.

I am writing to urge that you and members of the Education Committee to support the enactment of H.B. 7252, *AAC Establishing An Adjudication Process For Special Education and the Right of Parents to Observe Their Children at School*, as amended by these comments and testimony.

I want to state the the Mediation process that H.R. 7252 will replace, has worked well for me for over thirty years. The Department of Education has skilled Mediators such as Gail Mangs and Christine Spak who are dedicated, professional and have worked well to resolve disputes between parents and school districts. Both Gail and Christine and several other Mediators who have since retired, set a high bar for their professionalism, integrity, and dedication to pursuit of justice and fairness in the Mediation process, resulting in the settlement of the overwhelming majority of the Mediation cases. I can only hope that the new legislation and the new adjudicators will follow the high standards established by many of their predecessors during the past thirty years.

Section 1 (f): I would urge the Education Committee to amend Section 1(f) to permit retired employees of the State Department of Education and possibly other state agencies to serve as an adjudicator. There are several retired employees of the State Department of Education who could be qualified, but are precluded from serving as Mediators, Hearing Officers, or Surrogate Parents for children in special education proceedings because of state personnel rules. Since the adjudicators serve on a *per diem* basis and are paid only for "reasonable fees and expenses" and they are not otherwise considered employees of the State of Connecticut, the Committee should amend Section 1(f) to allow any retired employee of the State of Connecticut to serve an an independent adjudicator, provided that they otherwise meet the special education training requirements.

Section 2- I would urge the Education Committee to implement the right of a parent to observe their child in school and/or the right of the parent's independent evaluator to observe the student in school effective **July 1, 2017** and not July 1, 2018. The right of parents to have meaningful input into the development their child's special education program was first established in 1975, when Congress enacted the *Education of All Handicapped Children Act*, now called the *Individuals with Disabilities Act*. As the U.S. Supreme Court noted in its 2005 decision in *Schaffer v. Weast*, "*Parents and guardians play a significant role in the IEP process. They must be informed about and consent to evaluations of their child under the Act. §1414(c)(3). Parents are included as members of "IEP teams."* Parents should not have to wait any longer to have an right to observe their child in school and be an equal member of the PPT, the IEP team in Connecticut.

As an attorney for parents of children with disabilities, I have encountered school district policies that restrict outright a parent's right to observe their child in school, deny the parent's independent or outside evaluator the right to observe the student in school, or the schools enact policies that place unreasonable restrictions on a parent's observations such as the the attached school district policy that limited a parent's observation to thirty minutes.

I have attached a copy of the 2009 Technical Assistance Advisory policy that was issued by the Massachusetts Department of Education. The Massachusetts law encourages observations by parents and their evaluators as part of the overall development of a student's education program.

The policy requires observations to be timely, be of sufficient scope and duration, and that unnecessary restrictions not be placed on the observation. The Massachusetts policy does not give parents or their evaluators *carte blanche* access and recognizes observations should be scheduled in advance and not become "on demand" observations; that the safety is maintained, along with program integrity; and confidentiality. Some of these principles have been incorporated into the proposed Guidelines required by Section 2 (b). However, that section should be revised to ensure that parents and their evaluators have meaningful access to the student that is commensurate with the school district's employees and their consultant's access to the student.

Section 2 (b): Section 2 (b) (1) should be revised by removing from the proposed Guidelines the minimum of sixteen (16) hours and replace that with either no time limit restrictions whatsoever, or changing the sixteen (16) hours to a minimum of forty (40) hours per school year.

Section 2 (b) (2) should be revised to permit a parent's evaluator to observe the student regardless of whether the evaluator is conducting an observation as part of an independent evaluation pursuant to 34 C.F.R. Sec. 300.502. A parent's evaluator's right to an observation should not be conditioned upon whether or not such evaluation is an independent educational evaluation.

Thank you in advance for your consideration of these comments to amend H.R.7255.

Sincerely,

Lawrence W. Berliner