



**Education Committee
Public Hearing March 16, 2017**

Good morning Senator Slossberg, Senator Boucher, Representative Fleischmann, and members of the Committee. Thank you for the opportunity to testify. My name is Christina Ghio and I am an attorney in private practice in Cheshire, CT. I represent children, parents, and legal guardians in special education, disability discrimination, and child abuse and neglect matters. Prior to establishing my own practice, I was an Assistant Child Advocate for the Office of the Child Advocate, the Director of the Child Abuse Project at the Center for Children’s Advocacy, and an attorney at the Disabilities Rights Center (in New Hampshire). I come to you with a commitment to representing children and a belief that all children deserve an opportunity to succeed.

I testify today to:

- **Oppose Raised Bill No. 7255;**
- **Support Raised Bill No. 1008;**
- **Support Raised Bill No. 7252, with some changes; and**
- **Oppose Raised Bill No. 1007.**

I oppose Raised Bill No. 7255, An Act Establishing a Task Force to Conduct a Feasibility Study Regarding the Creation of a Special Education Predictable Cost Cooperative. I have two major concerns with the idea of a predictable cost cooperative. First, while this bill proposes a study, there are several bills around the same concept, which appears to be, in essence, an insurance cooperative. Most concerning about this concept is the potential that an entity, other than the planning and placement team (PPT), will make decisions about what is educationally necessary. This would be a clear violation of the Individuals with Disabilities Education Act (IDEA), which requires that decisions about what a child needs be made by a team that includes specific individuals, including the parents, who know the child and have reviewed the student’s evaluations and progress. To allow outside oversight, veto power, criteria for when particular services are available, or anything of the sort would be a violation of IDEA and will very quickly invite costly litigation. Second, the task force includes no parent/child representation at all. Funding for education ultimately impacts day to day educational services. It is unconscionable to create a task force that does not include parents of children with disabilities.

While I agree that education funding must be addressed, I ask that you be directed by the following questions as you move forward:

- How does the proposal improve educational services to children?
- Does the proposal encourage or discourage creation of capacity for high quality in-district special education services?
- Does the proposal address the lack of equity in education services for those in poor districts?

- Does the proposal do anything to address the achievement gaps that exist in Connecticut (including those based on income, race, and disability)?

I would also suggest that if a task force is being created, it should study a variety of alternatives and not be limited only to the concept of a collaborative cost cooperative. One concept that should be included is the idea of an adjusted statewide property tax, as proposed by Connecticut Voices for Children in their report “Equal Funding for Equal Effort: A Model to Reform Property Tax Funding for Local Education in Connecticut.”¹

I support Raised Bill No. 1008, An Act Concerning the Financial Responsibility of Boards of Education Resulting from Residential Placements by the Department of Developmental Services. As you know, a number of children are currently placed in residential educational settings by the Department of Developmental Services (DDS) and DDS has notified parents that such funding will end. Parents have literally been told by DDS that they must sue their school districts if necessary. This is of great concern, for both parents and school districts, and the bill appears to address the immediate crisis. However, it is my view that there is a need to look at the bigger picture, including the intersection of DDS services/funding and educational services for children. As you all know, the DDS budget keeps getting slashed. These cuts are having a tremendous impact on people with developmental disabilities and their families. They are also having an impact on local education agencies.

Because of DDS’ budget cuts, DDS decided to stop funding children in residential based on their determination that the services are educationally necessary. I agree with DDS that the services, at least in the cases I am familiar with, are educationally necessary. That means, in all likelihood, the cost of services will shift from DDS to local educational agencies (LEA’s).

Because of DDS’ budget cuts, DDS has also changed how it defines the term “age-out” for purposes of the planning and wait lists. DDS re-defined the term “age-out” to exclude children whose parents contribute to payment for residential educational services. (See Interim Procedure I.B.I.PR.002, Resource Planning for Students Completing Educational Services). How does this impact schools/LEA’s? It changes the options available for resolution of disputes between parents and school districts. Here is how it works: DDS policy requires that planning for children who are going to “age out” of residential educational programming begin well in advance of the child’s transition out of educational services. DDS narrowed the definition of which children will be considered “age-outs” by deciding that if parents have contributed payment for any portion of the educational or residential programming, that these children are NOT considered “age-outs” for purposes of planning for care when the child reaches the age of 21. So, when parents believe their child needs residential programming for educational reasons and they decide to pursue their right to such programming through an administrative hearing against the local school district, they have no option other than to pursue 100% funding from the local school district. Parents cannot, for purposes of avoiding litigation costs/risks to both parents and districts, negotiate with the school and agree to pay some portion of the placement. They simply can’t – because then their child won’t be treated as an age-out and will sit on the waiting list for years. So, they have no choice but to litigate against the school. The result is increased litigation costs for districts.

One solution is to require state agencies, like DDS and DCF, to pay for the cost of residential placements that are educationally necessary. Currently, both DDS and DCF policies state that

¹ The full report can be found online on the website for Connecticut Voices for Children: <http://www.ctvoices.org/sites/default/files/Property%20Tax%20Report%20FINAL.pdf>

they do not pay for anything that is educationally necessary. The result for families is that state agencies say the school has to provide the service while schools argue that the services aren't educationally necessary (often when that argument has no merit at all). State agencies and schools point fingers at each other while the student suffers and the parents have to hire an attorney. IDEA requires states to have a mechanism for such disputes. While Connecticut's plan says it complies with this requirement, it doesn't. Under IDEA, there is supposed to be a mechanism for resolving disputes between state agencies and LEA's regarding funding for educationally necessary services. IDEA requires that the student receives the services while the state agency and the LEA resolve the dispute. If Connecticut complied with IDEA and had such a mechanism, we would not have families in crisis while DDS tells them to sue their schools. It is time for Connecticut to fix this problem.

I support Raised Bill No. 7252, An Act Establishing an Adjudication Process for Special Education and the Rights of Parents to Observe Their Child At School, but the bill does require some modification to comply with IDEA. First, the adjudicatory process cannot replace mediation. Mediation is required by IDEA. The adjudicatory process can offer an alternative for speedy resolution, but it cannot replace mediation. Second, it is important to clarify the procedures for each party to "present its position" to the independent adjudicator. This procedure is not and should not be treated as an administrative hearing under the Uniform Administrative Procedures Act. Instead, this alternative should represent a streamlined alternative for speedy resolution. I would suggest that the panel identified in Section 1, paragraph 4 also be charged with establishing procedures for this adjudicatory process.

I strongly support Sections 2 and 3 of Raised Bill No. 7252. Observation helps parents to get a better understanding of their child's education. It is why many schools schedule parent observation days for general education students in elementary school. For parents of children with disabilities, these limited and optional observations may not be adequate and schools don't offer them as children get older. This makes it difficult for parents of children with disabilities to understand what their child's day looks like. For children whose communication is limited, this is an even bigger problem. Parents can't always just ask their child about school. In addition, when parents are concerned that their children are not making progress and don't agree with evaluations by the school district, they are entitled to an independent educational evaluation. Part of any good evaluation requires observation of the child. Yet, school districts routinely deny observation or limit it in ways that make the observation not meaningful and undermine the right to an independent evaluation. Raised Bill No. 7252 would address these problems and I ask you to support it.

I oppose Raised Bill No. 1007, An Act Concerning The collection and Reporting of Data Relating to Special Education Expenditures and the Intentional Underbudgeting of Special Education. I have many questions and concerns about the intent of this bill. I am most concerned about the idea that there would be reporting for the cost of individual students. In a small district, it isn't hard to figure out which child is placed out to a costly educational placement. One family I know was sent into turmoil after the school board publicly announced that it had to cut funding for sports because one child was going to cost the district \$200,000. Families of children with disabilities are already stigmatized and wrongly treated like they are greedy people taking something from other families. We should not be creating laws that exacerbate this problem. I also take issue with requiring this kind of reporting only in relation to special education funding. Why aren't we asking the schools to report how much they are spending on sports, or music, or talented and gifted programming? Why aren't we asking for reporting on the cost of the football field improvements, the new basketball court, or the new sound system for the auditorium? Why not provide the data on individual expenditures for every

individual child in the district? If we are going to track and scrutinize every dollar Johnny, who has a disability, uses, then we should track and scrutinize every dollar Mary, who doesn't have a disability, uses too. Sure, we have an average per pupil expenditure, but the truth is that the child who participates in football, lacrosse, and the talented and gifted program costs more than the child who simply attends class and goes home. If we are going to require data collection related to education costs, let's not discriminate against children with disabilities in the process.

Thank you for the opportunity to submit this testimony.