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TESTIMONY IN SUPPORT OF S.B. 1008 Committee on Education March 16, 2017

Chairman Fleischmann, Ranking Member Lavielle, Chairman Slossberg, Chairman Boucher and members of the Committee:

My name is Robin Keller and I am an attorney in private practice in Norwalk, Connecticut. I represent the parents and legal guardians of children with disabilities in need of federally and state mandated appropriate special education and services. Fifty percent of my practice is devoted to pro bono and sliding scale representation of the underserved poverty-level children of the state. Through this representation, I have personally been involved and witnessed the devastating impact of Department of Developmental Services (DDS) appropriation cuts that have led to the current degradation of services and tension between DDS and the school districts when a person under 21 (child) is in need of residential placement.

The impact of DDS' current refusal and inability to fund a recognized residential placement need for a child is chilling. Across the state there are children who for their safety and the safety of their caregiver cannot be cared for at home, even with additional at home support. The child's self-injurious and extreme destructive behavior is horrifying, devastating, and heart breaking to their caregivers. These children are so dysregulated by any transition or change in environment that their medical and therapeutic providers are unified in their opinion as to the need for residential placement. Instead these children are currently housed in our hospitals as social patients because of DDS' directive to parents that (1) DDS is not responsible for the funding of a residential placement for a child under 21, and (2) the school districts are.

One of my clients, Mitch, and his family are an example of the dire situation currently faced by children in need of residential placement. Mitch is a 340 lb, 6'1" 19 year old male who is non-verbal, intellectually disabled (too low for meaningful IQ testing), and prone to extreme violent dysregulation when (a) denied his preferred activity of eating, (b) when transitioned physically to another location, or (c) "for no reason at all," according to his medical providers. His intense head banging has caused destruction to physical property and to his head, which is almost always cut open despite medical staples, due to self-inflicted re-injury. Over

the past few months Mitch has become increasingly dysregulated in intensity and frequency.

Mitch has been in Bridgeport Hospital (BH) for the last six weeks because there is no funding to send him to a residential placement. After his last assault on the father (plenary guardian) in which self-injurious behavior (extreme head banging) also occurred, he was taken to BH accompanied by 6 police officers that attempted to Taser him, but begrudgingly agreed not to, due to his parent begging them not to and the fact that Mitch eventually calmed down. Afterwards, the parent could not bring Mitch home because the parents could no longer keep him safe. Since his stay at BH, there have been daily "Code Greys" because of escalating dysregulation.¹ Two security guards that are stationed in Mitch's room 24/7 are not enough to get Mitch safely to the bathroom and back without self-injurious or assaultive behavior. Yesterday, Mitch was moved to the psychiatric tower of BH after tearing the bathroom plumbing out of the wall while banging his head. BH is not equipped nor has the intense therapeutic staff necessary to deal with Mitch's behavior. Instead he is restrained and drugged to prevent additional Code Greys.

Bridgeport Hospital will not release Mitch to his home because it is not safe for him or his family. DDS will not pay for a residential placement such as Adelbrook. The local school district will pay for educational costs at a residential facility, but not the residential costs. As a result, Mitch will stay at BH, indefinitely regressing every day in his behavior, in spite of the fact that everyone agrees that that BH is the wrong setting for him. The enactment of S.B. 1008 would permit Mitch to get the treatment he needs in an appropriate institution.

S.B. 1008 reverses the unilateral decision by DDS to stop paying the cost of residential placements of students, attempting to saddle local school boards with the cost. Local school districts are not willing or required to fund non-educational costs.

Currently, both DDS and the Department of Children and Families (DCF) policies state that 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. State agencies and schools point fingers at each other while the child 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 does not. Under the Federal Individuals with Disabilities Education Act (IDEA), there is supposed to be a mechanism for resolving disputes between state agencies and Local Education Authorities (LEA) regarding funding for educationally necessary services. IDEA requires that the student receive 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. One solution is to require state agencies, like DDS, to pay for the cost of residential placements that are educationally necessary, as proposed in SB 1008.

¹ A "Code Grey" is BH's code for an emergent safety risk.

Attached to this letter via email are photographs of damage done to the family home by Mitch prior to his current hospitalization while DDS and the school district pointed fingers at each other. I have also attached for background information an Office of Special Education Programs (OSEP) complaint filed by Connecticut Legal Services that well describes the tension between DDS and the school districts.

Thank you for the opportunity to submit this testimony.

Respectfully submitted,

Robin P. Keller, Esq.