

Testimony of SEEK-CT
Before Education Committee on Raised Bill 850 and 7113
February 22, 2019

Chairman Sanchez, Chairman McCrory and members of the Committee,

I am here today representing Special Education Equity for Kids in Connecticut (SEEK-CT), Connecticut's first organization of parents, providers, advocates and attorneys fighting for excellent education for the 70,000 Connecticut students with disabilities. We have found that teachers, administrators and academics have been invited to sit at the decision-making table when crucial questions of special education are decided; but parents and advocates for students with disabilities have been left without a seat. SEEK-CT seeks to remedy that oversight.

The Committee has two raised bills directing the Department of Education to conduct studies into education issues and Connecticut's public schools. We expect the Committee to add substance to these bills. To that end, SEEK-CT knows that children with disabilities are entitled to a high-quality education, utilizing special education and related services to help compensate for the effect of the disability. Special education is a long-term cost savings proposition. The highest level of independence that can be achieved by the greatest number of children with disabilities means substantially lower costs for government in the future for social services, health care, and corrections. Rather than looking at special education as an unfunded mandate on local board of education, we should be approaching special education as the investment for a healthy and economically viable Connecticut in the future. Moreover, special education is a way in which the civil rights of children with disabilities are vindicated.

To that end, SEEK-CT advocates the following:

Ample Funding of Local Special Education Programs

When Congress passed the Individual with Disabilities Education Act (IDEA) in 1975, it promised to fund, with federal dollars, 40% of the special education costs expended by states and local boards of education. Except as part of the 2009 economic stimulus package, Congress has failed to meet this commitment, appropriating only about half of the promised amount.

Connecticut funds local special education in two principal ways. First, Connecticut provides Education Cost Sharing Grants to towns, based on a variety of factors that result in relatively large grants per students in poor towns and smaller or no grants to higher-income towns.

Somewhere over \$2 billion is provided to districts in this way. Although no money is specifically earmarked for special education through ECS grants, the grants help fund special education programs, particularly in poorer communities and cities. Second, Connecticut provided excess cost reimbursement on a student-by-student basis for special education programs that cost more than 4.5 times the average per pupil cost in a district. The legislature has appropriated about \$140 million for this, meaning that the reimbursement rate is at about 70% of the excess cost amount. Looked at from another angle, the appropriation for excess cost reimbursement works out to \$2,000 per special education student.

These two funding streams are not the most rational ones to fund special education. Local school boards need to find the resources they need to meet the needs of students with disabilities. In particular, school districts need to have the resources to build capacity to provide the particularized instruction that some students with disabilities need. Excess Cost grants merely serve as some level of insurance against catastrophic costs. The state needs to find a way to permit local school districts to build areas of excellence, in literacy, in math, in autism, and particularly in social and emotional instruction. The current funding system provides no such opportunity.

Protecting School Staff from Retaliation

The process of developing Individualized Education Plans for students with disabilities relies, in theory, on the active and honest participation of all who know and work with the child. This means that teachers and related service providers need to be able to speak freely at Planning and Placement Team (PPT) meetings. All too often, school staff meet in advance and are told what they can and cannot say at meetings. Public school teachers and service providers commonly report that they are fearful of speaking out on behalf of children with disabilities because, if they do so, they will be reprimanded or punished by their supervisors. SEEK-CT has worked with Rep. Jeff Currey to develop legislation (H.B. 6822) to protect school staff from retaliation for speaking openly and honestly when planning the program and placement of a student with disabilities. The Committee has not, as yet, raised this bill. SEEK-CT urges the Committee to confront this issue so special education can work in the way it was intended.

Attached to this testimony is a report on a survey SEEK-CT conducted of both parents and teachers. The results are clear. Teachers believe they are not free to speak at PPT meetings, that they need to follow the administration's script, that they are censored, and that they will suffer retaliation if they speak freely and honestly about students with disabilities. Parents believe that they are provided with inaccurate information at PPT meetings, that teachers and other school staff say one thing outside the meeting and another thing in the meeting, and that they are cut off from the paraprofessionals who work with their children.

Hence, the need for legislative action on H.B. 6822 is clear.

Achievement Gap

The Education Committee is very much aware of the yawning gap in educational performance between children of different races and of different economic groups in

Connecticut. There is an even greater achievement gap between students with disabilities and their typical peers. Despite considerable sums spent on special education over the last 45 years, that gap has not narrowed and, indeed, may have expanded. While focusing on the racial and economic achievement gap, the Legislature needs to focus as well on the huge achievement gap based on disability. The vast majority of students with disabilities are capable of progressing on grade level provided they receive proper individualized instruction and support. Most have average or above average IQ scores. Often, students with disabilities can excel if provided the right combination of support and challenge. Indeed, the Supreme Court in the *Andrew F.* case was clear about the need for challenge, saying, "the goals may differ, but every child should have the chance to meet challenging objectives." Special education must not be a space of reduced challenge and reduced expectations.

Individualized Education Plans

Each student with a disability is provided with an Individualized Education Plan (IEP) that sets forth the promised services to the student to permit the student to make meaningful education progress over the next year. The IEP is intended to be developed in a collaborative process between the school and the parents. SEEK-CT is concerned about any legislative initiatives that undermine the individualized nature of the educational programs.

For that reason, SEEK-CT is concerned about the legislative initiative to create a Special Education Predictable Cost Cooperative. The proposal is for the creation of an insurance company to provide predictability for school districts in their special education budgets. SEEK-CT opposes the establishment of a Cost Cooperative. If such a cooperative were set up, SEEK-CT would seek language ensuring that the insurance company would have no ability to question an IEP developed pursuant to the IDEA. Further, the administrative costs of the Cooperative

would need to be new money and not funds recycled from limited special education budgets. And, all communications between a school district and the Cooperative relating to a student's IEP would need to be available to the parent of the child.

Discipline

Due to their disabilities, students with IEPs disproportionately exhibit maladaptive behavior. Dealing with these behavior issues is a delicate matter. This has led to conflict between teachers and administrators, whereby teachers want to exclude disruptive students from their classrooms and administrators feel the need to return the student to his or her class. This conflict produced Raised Bill No. 7110, which is before the Committee and which we have addressed in separate testimony.

Hearings/Burden of Proof

In prior sessions, the Education Committee considered legislation to switch the burden of proving an appropriate program from the school district to the parents and to expedite the due process hearing system. Both of these issues aroused considerable controversy. SEEK-CT is opposed to any change in the burden of proof. School districts have the affirmative obligation to provide a free appropriate public education (FAPE) to a student with a disability. The district possesses the evidence need to demonstrate that it offered an appropriate program. Forcing parents to prove a negative without having the evidentiary base is not appropriate.

Observations/Independent Educational Evaluations

Parents and their private psychologists, educational consultants, and other service providers need to be able to observe the educational programs of their children in school in order to be full participants on their child's team and in order to understand whether their child has an appropriate educational program. Many school districts unfairly block or limit such

observations. While this is a matter that the State Board of Education directed the State Department of Education to address, the CSDE recently issued guidance which has made the situation worse. SEEK-CT plans to develop legislation to correct this problem.

Federal regulations provide the opportunity for children with disabilities to have Independent Educational Evaluations (IEEs) at public expense when the parents disagree with a school evaluation. An expert evaluation is an essential instrument to ensure that a student with a disability has an appropriate program. Especially for parents of limited means, the IEE permits their participation in the special education process, by having the cost of such evaluation funded by the school district. Unfortunately, CSDE issued guidance on IEEs last year that has made such evaluations less available to children with disabilities. We need legislation to correct this and to keep the focus on the needs of children, rather than the interests of adults.

SEEK-CT seeks to work with the Education Committee to develop legislation relating to students with disabilities that will produce better educational opportunities for the 70,000 Connecticut children with IEPs.

Special Education Equity for Kids (SEEK-CT)¹
Retaliation and Censorship in Connecticut Public Schools
Prepared by Diane Willcutts
February 21, 2019

Overview

Connecticut parents, attorneys, and advocates have long heard from teachers and other school staff that they fear retaliation by administrators if they speak openly with parents about a child's needs related to special education. SEEK-CT conducted two surveys—one for parents and one for school staff—in order to quantify those concerns.

Links to the surveys were widely distributed through social media, web site postings, and/or email lists through SEEK-CT, the Connecticut Parent Advocacy Center (CPAC), SpEd Connecticut, Connecticut Families for Effective Autism Treatment (CTFEAT), and Decoding Dyslexia. Responses were collected between 2/13/2019 through 2/19/2019.

260 Connecticut parents and 96 school staff members completed the anonymous, online surveys. Respondents were from all over the state—in urban, suburban, and rural districts.

Of the 96 Connecticut school staff participating, approximately 34% were regular education teachers, 24% were special education teachers, 18% were related services professionals, 13% were paraprofessionals, and 11% identified themselves as “other” (often noting in the comments that they were administrators).

Note that all respondents were given the option to have their anonymous comments shared or to keep them completely private. Many parents and school staff stated that they needed to keep comments private, as they feared retaliation. For some items, there were many more comments than we included in this report.

Results – SCHOOL STAFF

1. ***30% of school staff say that their district has policies/practices that limit parent/teacher communication.***

Comments

Unwritten practices that we cannot say a child needs services.

We are not supposed to tell parents to ask for a PPT² meeting.

Unwritten policies that school staff cannot make recommendations to parents, that they should not suggest parents ask for testing.

Teachers cannot freely recommend a child receive “services.”

¹ Special Education Equity for Kids (SEEK-CT) is Connecticut's first organization of parents, providers, advocates and attorneys, fighting for excellent education for the 70,000 Connecticut students with disabilities.

² PPTs are Planning and Placement Team meetings, related to special education.

2. ***34% of school staff say that they were given training regarding what to say/what not to say to parents.***

It is communicated verbally not to push for a PPT or to voice concerns.

It's all verbal. We are told not to use student names in emails for fear of FERPA.

Do not tell parents if services are not being given or inconsistent – do not tell parents that accommodations/modifications are ignored – NEVER recommend testing to a parent – do not tell parents if a child has been excluded from an activity. No training, just directives.

We are to instruct paras not to communicate directly, as they might “inadvertently say something incorrectly or misinterpret things”

As a paraprofessional, I am not allowed to talk to parents.

In CT teacher prep graduate program, the Special Education class instructs teachers to avoid saying that a student might need services. We are told that this is illegal and can cost us our license.

3. ***48% say that supervisors discourage them from speaking openly with parents regarding their child's needs related to special education.***

One must repeat the party line always.

Also, we are told that administrators and downtown decide what proper placement for a student should be, not the team in the PPT.

We are always to recommend SRBI³ even if we have strong reasons to suspect a disability.

I have been accused of conspiring with the family against the district. . . We have pre-meetings and my administrator tries to sway me/guide me/influence me before meetings directly with parents. . . We have been admonished not to recommend specific services.

(From a paraprofessional) The principal does not want us to talk to the parent. She only wants the teacher to talk to them even though I am the one who has more contact with the student than the teacher.

4. ***65% of school staff say that they would be likely to be reprimanded or punished if they openly speak with parents about what their child needs related to special education.***

Yes, I have been put on warning that I could be written up if I spoke openly to a parent about concerns again.

I have heard of admins that have been let go or demoted based on making decisions that are “costing the district too much money.”

³ SRBI is Scientific Research Based Intervention, also known as tiered intervention, a regular education initiative. The U.S. Department of Education has explicitly stated that SRBI should not be used to delay evaluation for special education.

If administration found out, yes.

I would likely lose my contract.

Big time repercussions!!! Sped supervisors and building principal would be all over me. NEVER.

Especially done on record at PPT. Director could find it insubordinate. If I do speak with parent openly, I would do 1:1.

5. 72% say that they are unable to make recommendations in a PPT that were not preauthorized by an administrator.

Not without being reprimanded.

I need pre-approval to increase special ed hours, add/change tutor support, and transitional placement.

Absolutely not!!!

Strategies are held prior to PPTs. It's predetermination at its best.

We are required to get pre approval from admin for service increases, para support, and placement.

NEVER. Even as assistant principal, if a child needed serious resources, I couldn't say it. All recommendations are usually discussed prior to PPT.

Everything has to be OK'd by the director prior to the PPT. Services are decided and dictated prior to the PPT.

6. 35% of school staff say that administrators discourage them from referring students to special education.

Referral to PPT is discouraged

Yes, they stay in SRBI process for years.

I considered making a referral for evaluation last year for a student at TIER 2 but backed down because I was afraid of retribution.

They want tons of data over long periods of time before a PPT is called.

We are not allowed to refer students until they are 7 years of age. It is dictated that the students should stay in RTI ⁴support.

7. 38% of school staff say that there are pre-PPT meetings where they are coached regarding what they can/cannot say.

⁴ RTI is Response to Intervention, which is another name for SRBI. (See Footnote 3 on Page 2.)

Roles are assigned and rehearsed. All information is shared, decisions are made, so by the time the PPT takes place, it's all a sham and done deal.

We go through what will be said and what the recommendations will be and to not suggest anything else.

At the PPT, recommendations are made, but these recommendations have already been discussed, without a family present.

There are always pre-PPT meetings and decisions are made there. Then the PPT sounds like all decisions were made at the table there and then.

Yes. Whomever is chairing the PPT directs everything. We are told not to raise new issues not previously discussed.

The sped team members review everything and rehearse what will happen, parents totally out of the loop, ESPECIALLY non-English speaking and minority parents. By the real PPT meeting, it's all a done deal.

- 8. 33% of school staff say they are concerned that, if they make recommendations in a PPT that were not pre-authorized by an administrator, they could be fired. Of those who said no, many reported that they would be likely to be reprimanded, even if not fired.**

Fired, no, but there would be a price to pay even for building administrators to speak their mind.

Verbal warnings have been given to teachers.

No, but I could be reprimanded.

Not fired but certainly spoken to or even written up with something that goes in personnel file.

Not fired but reprimanded, especially if it's going to cost the district money.

I've seen it happen, although school administrators make other excuses or pressure the person to resign before they have to terminate.

Results – PARENTS

- 9. 48% of parents say that a school staff member has told them that their child was having difficulties but said that this had to be "off-the-record."**

The social worker told me that she wasn't allowed to suggest the placement we both thought was best for my son, due to the principal telling her to stay quiet.

She was afraid of being fired. Eventually she was.

They were worried about getting reprimanded.

It was the school principal actually and he simply told me “I think your son should be tested for learning disabilities and you should request it in writing, but I’m not supposed to tell you that or I could lose my job.”

The teacher told me that they suspected that my daughter had dyslexia and ADHD but that they could not legally tell me this. But said that I should ask the school to have my daughter tested. But I should not tell the school that the teacher told me of her suspicions.

The teacher specifically told me they would face retaliation if the school knew I was told this information.

10. ***38% of parents said a school staff member had told them to request something from the school (e.g., assessment, service, para, etc.) but said that s/he could be fired for telling them that. (Note that many “no” respondents said that staff had expressed concern about being reprimanded, not being fired.)***

They have told me what to request and said “I can’t request it.” The implication was that they would get in trouble. The word “fired” was never overtly used.

They said they are not allowed to share info. They are afraid they will lose their jobs and are silent at PPTs.

The school principal told me exactly that, I should request testing for possible learning disabilities but that he could be fired for telling me that. Fortunately, he was about to retire.

Teacher told me to request a 1:1 paraprofessional. But told me to keep secret as the School Administration and the new Director of Pupil Services have a policy that prohibits teachers from making recommendations for services.

The teacher called me at 10 p.m. and stated I should challenge the school and push for special education for my son. She asked that I not mention that she called me as she could lose her job.

11. ***22% of parents said that a school staff member said that they should hire an attorney or advocate and asked them not to tell anyone s/he said that.***

I was told outside of the schools setting that if I wanted anything done the right way that I needed an attorney or advocate.

Principal told us it would be in our best interest to get an advocate.

Staff pulled us aside after a PPT and quietly suggested we hire an advocate.

We were secretly given a couple names of attorneys by two teachers. I know they were scared to give us information but they know my child needed services but was denied by the new director.

Yes – the teacher even provided names of attorneys but begged me to keep quiet for fear of being fired.

12. ***64% of parents of children with paraprofessionals say that the para is not permitted to speak with them directly.***

Paras at public schools are absolutely not allowed to speak to us. I have been told on many occasions by almost all of our paras that they were not allowed to say anything. They were very careful to preface their conversations with a warning to us not to say anything.

I think the paras should absolutely be able to talk to the parents. They are the one constant that is with your child the whole school day

We have been told that it is district policy that the paras have no conversations with parents about the student and communications be directed through the teacher.

They don't allow the paras to participate in meetings or otherwise communicate with us, which is frustrating. They have the most direct interaction with our son throughout the day, and we wish they did allow them to be a true part of our team.

It is very important to talk to the para. They are the person who spends the whole day with your child. Their input is very important. In my case, I was told it was the union rep that said not to talk to the parent.

It would be useful if I could since his paras are the ones who spend the most time with him. One of his paras left his school. . . we had a nice talk and he told me he could now speak to me freely since he was no longer at the school and raised his concerns with the way my son's program is set up.

The principal of our school prohibits paras from talking to parents, but some will discuss with you on the condition of anonymity.

13. *48% of parents say school staff tell them one thing outside of the PPT but say something else in the PPT.*

Most of the time there is a service or something the teachers think should be implemented and they sometimes say the opposite at the PPT or don't share at all.

The teachers don't speak up at the PPT. I know they are afraid of the new director.

They are influenced by the director of student services. When you walk into a PPT AFTER everyone has already gathered. . . they have already come to the conclusion before the meeting began. . . Their jobs are obviously at risk – whether it is an implicit or explicit threat – or we have unethical adults teaching our children, or both.

She just stays quiet in the PPT when she disagrees with school administration, tells us what to say before meetings.

Absolutely. Teachers and service providers do not share with PPT advice, concerns, or suggested supports that they share with me outside of PPT.

The school staff, both the classroom teacher and sped teacher, occasionally admitted to me outside of the PPT that my child was not making progress or was struggling with something, but they NEVER said it in the PPT.

A few tell me things then remain silent on the issue in the PPT. . . I will say I observed something, my daughter told me this happened, or I feel she needs this. I know they can be fired for what they tell me and I want to avoid that.

14. 70% of parents say that school staff do not speak with them openly and honestly about their child's needs.

Not in a PPT.

The administrator is threatening/overbearing, they are first/second year new staff afraid of losing their jobs.

Very guarded and worried about jeopardizing their own job.

No, I think for years admin has told the school team to not speak to me or give me any info.

No, we often feel like they are more protective of potential liabilities or putting them/the school at risk in how they communicate with us.

They often “fluff” progress and like to say how much of a joy our child is in class and how he is eager to please, without addressing inadequate. . . progress. If we question test results, they back peddle (sic) and stumble and try to change the conversation.

15. 78% say they feel like school staff misrepresent their child's progress.

He is being pushed through the curriculum as if he is making significant progress. He struggles with what is considered “mastered skills” quite significantly.

They totally lie about progress.

Because they know we’re requesting outplacement and they try to insist he’s doing great.

They pass him, make excuses, don’t push him academically. . . it is terrible.

They make it seem like he is doing well, can’t provide the proof and don’t want to say that he truly has a problem.

They say she’s making progress but they can’t provide evidence of the progress, goals, and objectives she “mastered” repeat year to year, and they pretend she has skills she does not have.

I feel like they do a lot of work for him.

ALL THE TIME. Data, scoring, and measurements have always been very subjective and the only response to my questions has been, “she’s making great progress.”

They report great progress, but we’re unable to replicate at home.

He struggles every night with homework, lots of redoing his work, but somehow miraculously comes home with 100%, not even one eraser mark on tests, and all 4s on his report card. At his annual review, they said he mastered every goal on his IEP, which he absolutely has not.

Tells me my child is reading grade level, when it's obvious my child isn't.

The reports are twisted and biased and things are said in such a way that it makes my child look like he is able to succeed but it is because the standards are set so low.

Conclusion

Parents and school staff indicate that boards of education discourage, reprimand, and punish staff from communicating openly with parents about their children's needs related to special education. This is in violation of the Connecticut Code of Professional Responsibility for Educators, codified in Section 10-145d-400a of the Connecticut regulations, which prohibits knowingly misrepresenting facts or making false statements and which requires that educators encourage parental participation in the education process.

Some may think that Boards of Education are perhaps justified in silencing teachers, as this may be a way (albeit an illegal and unethical way) to stem costs. This is a common misunderstanding. In fact, research indicates that earlier intervention can save districts money in the long run. Many students whose needs are neglected in the early grades end up requiring significantly more expensive private placements later on.

To address the problems identified in this survey, SEEK-CT worked with Representative Jeff Currey to develop [HB-6822](#), An Act Concerning the Protection of School Personnel in Communications Related to Special Education. We hope that legislators will take steps to prohibit Boards of Education from silencing and retaliating against teachers and other school staff.

For more information about this survey, please contact Diane Willcutts at (860) 992-5874 or diane.willcutts@gmail.com or Andrew Feinstein at (860-969-0700) or afeinstein@edlawct.com.