TESTIMONY OF KATHLEEN FLAHERTY, ESQ.
EXECUTIVE DIRECTOR, CT LEGAL RIGHTS PROJECT, INC.
HIGHER EDUCATION & EMPLOYMENT ADVANCEMENT COMMITTEE
PUBLIC HEARING
FEBRUARY 14, 2019

Concerns regarding: SB 750, AN ACT CONCERNING THE PREVENTION AND TREATMENT OF MENTAL ILLNESS AT INSTITUTIONS OF HIGHER EDUCATION.

Senator Haskell, Representative Haddad and distinguished members of the Higher Education and Employment Advancement Committee:

Good afternoon. My name is Kathy Flaherty and I’m the Executive Director of Connecticut Legal Rights Project (CLRP), a statewide non-profit agency that provides legal services to low income adults with serious mental health conditions. CLRP was established in 1990 pursuant to a Consent Order which mandated that the state provide funding for CLRP to protect the civil rights of DMHAS clients who are hospitalized, as well as those clients who are living in the community. I’m also the Co-Chair of the Keep the Promise Coalition (KTP). KTP is a coalition of advocates (people living with mental health conditions, family members, mental health professionals and interested community members) with a vision of a state in which people with mental health conditions are able to live successfully in the community because they have access to housing and other community-based supports and services that are recovery oriented, person-driven and holistic in their approach to wellness. Lastly, I’m a member of the steering committee of the Connecticut Cross Disability Lifespan Alliance, an alliance of people of all ages with all disabilities who pursue a unified agenda.
I am a person living in recovery from a diagnosis of bipolar disorder. Although it is likely that I was experiencing symptoms related to depression and anxiety dating back to my childhood, it was not until I was a senior at Wellesley College that my mental health condition substantially affected my ability to function effectively as a student and complete my schoolwork. I majored in biochemistry, but I reached the point where I literally could not bring myself to walk into the Science Center. That made it impossible to complete my senior thesis. That’s why I’m a lawyer today.

I was diagnosed with bipolar disorder in the fall of my first year at Harvard Law School. I was civilly committed to McLean Hospital for up to six months, and discharged after 60 days. I did return to school the following year, but had to overcome some obstacles to do so. I am sharing my experience with you in the hopes that you will learn from them, and craft the final bill in a way that accomplishes its very valid and important purpose but does not unduly interfere with the legal rights of students at institutions of higher education.

It is absolutely clear that institutes of higher education need to understand their legal obligations to their students under the state and federal law. Students living with mental health conditions qualify as disabled under the law; they are entitled to reasonable accommodations of their disability. Students should not fear disclosing their disability in order to get those reasonable accommodations. While it is true that schools do not have to accommodate someone who poses a direct threat to the health and safety of self or others, it is important that when assessing potential threats that schools do not make decisions about who does or does not pose a direct threat based on diagnosis rather than conduct.

Schools should not mandate that a student who has taken a break to seek mental health treatment take a leave of absence of any particular length in time. It should be the student’s decision whether or not such a leave is necessary in order to sustain her journey to recovery. For some, a break may be just what is needed to get back on track. For others, it is the relationships and community at school that serve as the foundation of getting one’s life back. For me, personally, school was my life – it was something I excelled at, and an environment in which I was comfortable. I knew how to be a good student. Being forcibly removed from that
environment was incredibly traumatic. Mandating leaves of absence will not encourage students to get help.

Schools must also realize that they should not be erecting barriers that place undue burdens on students who wish to return to school after seeking mental health treatment. The conditions imposed on my return to law school included not being allowed to be the leader of any student group on campus, so that I could “focus on my studies.” I accepted that condition because I wanted to be back at law school more than I wanted to fight, but in retrospect, that is a rather infantilizing way to treat an adult who is paying (and borrowing) tens of thousands of dollars to attend your school. Requiring extensive documentation of medical clearance and/or ongoing treatment in order to return to or remain in school similarly fails to recognize the power of someone choosing on their own to get the help that they want in order to accomplish their goals.

What was most helpful to me when I was in school – and continues to remain most helpful to me now? The support of my peers – other people who have experienced emotional distress and figured out how to live through it. The intervention of medical professionals is important, and played a not insignificant role. However, this cannot be an intervention accomplished by coercive means if it is going to result in long-term engagement with services and ultimate recovery. People find many ways to recovery.

This state needs to be careful about endorsing any particular program or intervention when it talks about “establishing programs” regarding mental health conditions. I encourage you to talk with those of us who have been there, and listen to our recommendations about what has been helpful – and more importantly, what has been profoundly unhelpful – to us in our journeys to recovery. It is important to ensure that people have access to information about their legal rights as disabled students at institutes of higher education.