

April 18, 2025

Representative Maryam Khan
Senator Sujata Gadkar-Wilcox
Members of the Select Committee on Special Education
Legislative Office Building, Room 3100
Hartford, CT 06106

To: Representative Maryam Khan, Co-Chair, Senator Sujata Gadkar-Wilcox, Co-Chair, Representative Tina Courpas, Ranking Member, Senator John A. Kissel, Ranking Member, Representative Christopher Poulos, Vice-Chair, Senator Catherine A. Osten, Vice-Chair, and members of the Select Committee on Special Education:

ConnCASE, in our role as special education leaders and advocate respectfully submits testimony regarding Raised Bill No. 1561, An Act Concerning Resources for Special Education, and Raised Bill No. 7277, An Act Concerning the Provision of Special Education in Connecticut.

The Connecticut Council of Administrators of Special Education (ConnCASE) is a not-for-profit professional organization with a membership of over 326 special education administrators throughout the State of Connecticut dedicated to providing quality services for students with disabilities. ConnCASE is the statewide division of the Council of Administrators of Special Education (CASE), a division of the Council of Exceptional Children (CEC), our national parent organization. CEC recently celebrated its 100th year of leadership and is recognized as the premiere professional organization supporting children with exceptionalities, their families, and the staff dedicated to their meaningful educational progress. The mission of ConnCASE is to promote professional leadership; to provide opportunity for the study of challenges and issues common to our members and to communicate information that will help to directly improve services for Students with Disabilities in the State of Connecticut

We offer testimony in support of some sections of the bill and offer considered testimony in opposition to other sections of the bill. All our comments reflect the need for support for transparency of communication with all stakeholders, full funding for the State's responsibility in the excess cost of the special education supports and services for children with complex and significant needs, efficient systems that will not impact timelines of provision of FAPE and a recognition of support for a comprehensive continuum of special education programming.

Section 40 **Support** in part and **Oppose** in part:

Section 40 (5) (C) ConnCASE **supports** the change in definition of a “a child requiring special education” who is age five through eight and is experiencing development delay that causes the child to require special education. This is consistent with the recommendations made by the Special Education Task Force.

Section 40 (5) (B) ConnCASE **opposes** the continued definition of a “a child requiring special education” who has extraordinary learning ability or outstanding talent in the creative arts, the development of which requires programs beyond the level of those ordinarily provided in regular school programs, but which may be provided through special education as part of the public-school program. The request to remove Gifted and Talented from the definition of students requiring special education is consistent with the recommendations made by the Special Education Task Force.

Section 3 ConnCASE **supports** in part and **opposes** in part.

ConnCASE **supports** the concept of rate setting related to the tuition, rates and other fees charged for special education and related services. ConnCASE **supports** the inclusion of the RESCs along with private providers in the rate setting methodology. ConnCASE supports a rate schedule for separate related services.

ConnCASE **opposes** the rate setting functions being given to the Office of Policy and Management. The expertise for this function rests within the Connecticut State Education Department. ConnCASE **opposes** the timeline of January 1, 2026 for the establishment of the rate setting schedule. Six months is not a realistic timeline. A study has recently been completed by the University of Connecticut. Results and recommendations of that study along with input from stakeholders should be obtained before setting the schedule. ConnCASE believes that a realistic timeline would be June 30, 2026.

Section 3 (b) ConnCASE **opposes** a “universal rate” for special education and related services rate without clearer definitions. Staffing ratios and intensity of service delivery are individualized by each students’ IEP requirements. Student needs significantly impact the staffing rations in special education programs as higher levels of need will require intensive, individualized supports and therapeutic services. Children with complex medical needs can significantly impact the rates of provision of special education services by increasing costs associated with staffing including nursing services, training and specialized equipment. A universal rate will negatively impact a school’s ability to serve individual students by failing to account for the diverse and varying levels of support required by students. A “one-size fits all” methodology may lead to underfunding those programs who provide the most intensive services while other charging agencies who may serve students with less intensive needs may profit from a universal rate schedule which would negate the benefit of rate stabilization. Finally, regional differences in staffing costs must be considered.

Rather, ConnCASE believes that a simplified rate setting process based upon documented cost centers for each special education charging entity that is universally applied to all LEAs will result in the cost stabilization that this legislation aims to achieve.

ConnCASE **opposes** a process that would withhold eligibility for excess cost reimbursement if an LEA is charged or pays a tuition or special education cost that exceeds the amount prescribed in the universal rate. We also oppose the prohibition on special education programs from accepting additional students if their charges surpass the universal rate. The rate set should be the acceptable guideline for charges but allow for the possibility of highly individualized needs. We can share individual stories of programs who have had to redesign environments or hire additional staffing to meet the health or safety needs of a child. Withholding reimbursement or prohibiting student placement will only serve to harm the very children this legislation aims to support, undermining efforts to enhance special education services and access to necessary resources for those who need them most.

Section 3 (d) ConnCASE **supports** the requirement that the Department of Education post on its Internet website the rate schedule set for special education and related services . We believe that this transparency will provide stakeholders with meaningful information while not adversely disclosing confidential information about individual children.

Section 4 ConnCASE **supports** a requirement that rates for special education or related services not be raised mid-year to ensure financial stability and effective budgeting by LEAs. It is understood that a PPT may increase related services or staffing, such as the assignment of a behavior support paraeducator, resulting in an amended contract using the rates set without requiring approval of a state entity.

Section 7 ConnCASE **supports** in part and **opposes** in part. ConnCASE **supports** the reduction of the high-cost reimbursement threshold from 4.5 to 3.0 times the net current per pupil expenditure for students served within the district. This promotes the principle of least restrictive environment by fostering inclusive practices, social connection and a sense of belonging within the home community while encouraging districts to develop cost-effective programs to deliver high leverage quality special education services within the district. This is consistent with the recommendations of the Special Education Task Force and previous written testimony provided by ConnCASE.

Section 7 (b) ConnCASE **opposes** the two year look back on when a student has returned to district from an out of district placement. This two year look back will unfairly penalize districts that have proactively invested in building in-district special education program discouraging innovation and long-term planning. The goal should be to incentivize and support the LEAs to develop effective high leverage programs that meet the needs of the great majority of their students with disabilities reducing the need for out of district placements from the onset.

Section 7(b) ConnCASE **opposes** the prohibition of providing in district special education or related services without the assistance of any third-party contractor who is

not an employee of the school district. This exclusion from the reduced threshold does not recognize the need for short-term contracts to engage professionals with specific expertise in program development and staff training and negates the reality of current staffing shortages. Most school districts, particularly smaller or rural school districts, may need to contract with specialized related services staff including audiologists, occupational or physical therapist. Additionally, it must be recognized that the school district may need to hire an expert consultant to support program and staff development in specialized areas such as inclusive practices for autistic students, evidence-based interventions for children with dyslexia and trauma informed practices for students with challenging behaviors or mental health needs. These contacts may be necessary to ensure that staff are equipped to deliver evidence-based practices with fidelity. School districts need access to expert supports for effective program development to build parent trust, ensure collaborative decision making, support staff to create seamless transitions for students with complex needs.

Section 8 ConnCASE **supports** the creation of a special education offset grant providing a 50% weight for the number of students receiving special education services in the district. We look forward to working with the State to ensure adequate funding.

Section 9 and Section 10 ConnCASE **supports** the creation of a \$ 50 million special education transportation grant. We look forward to working with the State to ensure adequate funding.

Section 11 – ConnCASE **supports** the development of coordinated bus routes for out of district placements with the understanding that safeguards are in place to protect the confidentiality of identifiable student information and that the PPT may recommend individualized transportation based upon a unique student's needs, including health and safety concerns. The high cost of transportation was considered by the Special Education Task Force and coordinated routes hold promise for shared services if developed collaboratively by the State agencies with expertise in Special Education and Transportation.

Section 12: ConnCASE **supports** the creation of a competitive grant with the CSDE to support the development and expansion of in-district programs. The concerns about the prohibition of providing in district special education or related services without the assistance of any third-party contractor who is not an employee of the school district discussed in 7 (b) applies here. Districts may need support to build internal capacity to scale and ensure long term sustainability. Long term savings and economy of scale may not be realized in year one or two as districts scale up program availability. We look forward to working with the State to ensure adequate funding.

Section 16: ConnCASE **supports** the requirement that any provider that is paid by an LEA to provide services to a student must return the prorated portion of any payment if the student transitions out or withdraws from the program during the school year.

Section 19: ConnCASE **opposes** the requirement of the Office of Policy and Management to provide prior approval for the LEA to enter into contracts and make expenditures to private contractors. This will create indefensible timeline delays that will hinder the timely implementation of IEPs and interfere with the district's ability to provide FAPE as required under IDEA.

Section 23 - ConnCASE **supports** the requirement to notify parents of staffing changes. We support this requirement for all providers, public and private. Transparent communication is the key to parent engagement.

Section 24- ConnCASE **opposes** the requirement limiting who may request a PPT to consider appropriateness of a program transfer.

Section 25 – ConnCASE **supports** the development of a model contract. This is consistent with recommendations made by the Special Education Task Force.

Section 26 – ConnCASE **opposes** the process for the Office of the Child Advocate to develop and post guidelines for LEAs regarding residential placement. ConnCASE encourages consideration of a cost sharing agreement and the establishment of memorandum of agreements across agencies including DDS, DMHAS and CSDE.

Section 28 ConnCASE **supports** the requirement for LEAs to conduct an FBA prior to outplacement due to challenging behaviors except in situations when students are placed into an Interim Alternative Educational Setting for up to 45 days due to dangerous behaviors.

Section 29: ConnCASE **supports** the requirement for a service to be specified on the child's IEP to meet behavioral goals.

Section 30: ConnCASE **supports** the requirement of the Transforming Children's Behavioral Health Policy and Planning Committee to file a report by January 1, 2027, on behavioral intervention methods, and the feasibility and impact study of requiring private providers to utilize evidence-based interventions that are proactive and individualized including but not limited to Ross Greene's Assessment of Lagging Skills and Unsolved Problems.

Section 32 – ConnCASE **opposes** the language that prohibits the Commissioner of Education from approving new or additional private providers. ConnCASE recognizes the importance of maintaining a full continuum of services, including access to APSEPs to ensure that students with unique or complex needs receive the intensive support they require particularly in areas of the state where such services are limited. Current

waitlists, especially for students with extreme behavioral and mental health or medical needs highlight the urgent need to preserve and expand these critical options.

Section 33: ConnCASE **supports** the creation of a competitive grant program to individual educators and paraeducators for training, education and requires the grant recipient commit to three years of service in an alliance district. This is a much-needed resource to address the current staffing shortages. We look forward to working with the State to ensure adequate funding.

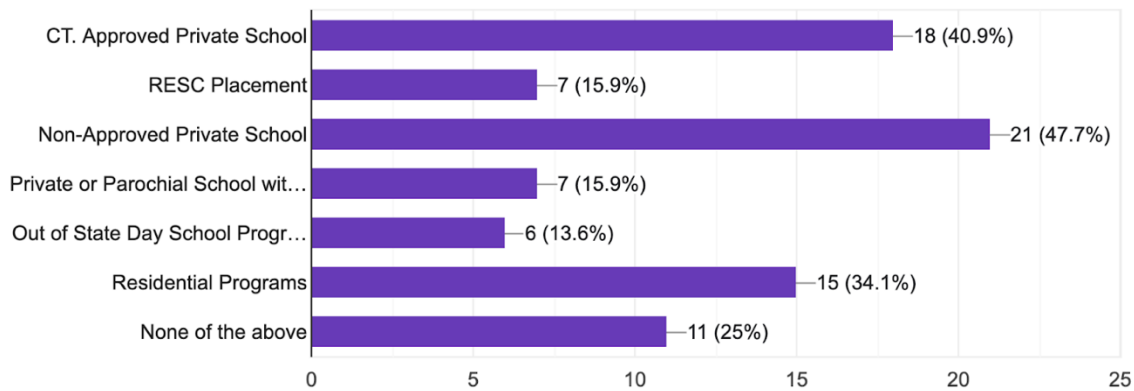
Section 41: ConnCASE **supports** the shift of the burden of proof in cases of unilateral placements to the party who filed for due process. The US Supreme Court decision in *Schaffer v. Weast* in 2005 held that in special education due process hearings under IDEA, the burden of proof rests with the party seeking relief unless state law assigns the burden differently. Connecticut is one of seven states that have specifically put the burden of proof on the school district; these other states include:

- New York - splits the burden and assigns it to the party requesting the hearing in tuition reimbursement cases
- New Jersey
- Delaware
- New Hampshire
- West Virginia
- Washington - splits the burden and assigns it to the party requesting the hearing in tuition reimbursement cases

ConnCASE recently surveyed our members to share their impressions of how placing the burden of proof on school districts has influenced parental placement agreements and frequency of out of district placements. The graph below represents data from 44 responses, illustrating the frequency of tuition reimbursement agreements in various types of out of district placements. Many administrators cited the high cost of due process, both in terms of fiscal and human resources, particularly due to the burden of proof resting with the district as a significant driver of costly mediated settlements.

Did any parental agreements result in tuition (partial or total costs) reimbursements in the following type of programs (check all appropriate)

44 responses



When asked to describe what impact, if any, the burden of proof being assigned to the LEA has had in your district, administrators provided anonymous responses including the following:

- “The financial burden of going to hearing for the school district, coupled with the stress on our staff that can result in staff turnover and missed service time for students, brings school districts to mediated agreements in parent-initiated placements at placements that are not state-approved, do not have certified staff, and are often out of state with very limited ability for the school district to ensure educational outcomes and even physical and emotional safety for our students. The process gives nearly all rights to ... request reimbursement for unilateral placements, ... however the financial cost and liability remains with the school district.”
- “The burden of proof is that the district must go first in putting on their case, this has increased the number of days. We have had the same amount of days for direct testimony, but then find we are using more days/time for redirect during the hearing.”
- “We are being forced to settle to avoid the extensive cost of hearing. Staff is feeling bullied by ... aggressive and unreasonable requests. “
- “It has made mediation more contentious and the district more likely to settle as a result of the ... burden falling on the district.”

Section 42: ConnCASE **opposes** the changes in in the authority of a hearing officer to “consider all programs capable of providing the child or pupil a free appropriate public education in the least restrictive environment.” We are further opposed to the requirement that if the hearing officer determines the IEP does not provide a FAPE, “the hearing officer shall first consider all services provided by the district, followed by services provided by the charging entity, and if no such services provide” a FAPE, the hearing officer may then consider a placement at a nonapproved private provider. This places an impossible task for a hearing officer to know all available in district and approved out of district options prior to considering the placement offered In a non-approved private provider. The three-prong test is well established, and the Second

Circuit consistently applies the Burlington/Carter standard. Specifically: Does the district's IEP fail to provide FAPE, is the parent's chosen private school appropriate and do equitable consideration support reimbursement. Endrew F. defines the district's substantive obligation as offering an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances in that the IEP must be appropriately ambitious and tailored to the child's unique needs. We oppose legislation that contradicts well-established case law regarding the responsibilities of a hearing officer.

Section 52 and 53 ConnCASE **opposes** the requirement for each school district to hire or designate an employee to serve as an instructional support teacher. Many school districts employ special education instructional coaches charged with the tasks included in these sections. We, however, oppose the requirement in that it imposes an unfunded mandate on local school districts beyond the requirements of IDEA. School districts must improve teaching, engage and collaborate with parents, deliver professional development and assist with classroom management. These essential tasks are the responsibility of the school district and should not fall exclusively within the purview of special education.

ConnCASE appreciates the opportunity to provide testimony and encourages the Sub-Committee to consider language changes to several Sections of the raised bills. Fifty years ago, the IEP became a promise. today, representing ConnCASE and working with all stakeholders, we recommit ourselves to that promise: that every student has a voice, every student matters, and every student belongs. We look forward to working with you to improve the delivery of special education supports and services in Connecticut.

Sincerely,

Yvette Goorevitch

Executive Director ConnCASE