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Second, I wanted to note that we had a deadline of noon on Friday for the submission of written testimony, and it turns out we received whole bunches of testimony via e-mail over the weekend. Materials that were not submitted by noon on Friday were not necessarily run off and made available to members because we had a deadline, and just as in school, when you have a deadline for a paper, it's hard and fast. So it is at the Education Committee. So, if you submitted something on Saturday or Sunday and you don't see it distributed in written form, it's because the Committee needed to respect its deadline in order to get the printing done.

With that, I think we're ready to get our Public Hearing under way. We'll start off with public officials, and then we'll move to the public. The first public official signed up to speak is James McGaughey, and we welcome him, and I'll observe that all folks who are testifying will be subject to a time limit today, and you'll hear the bell go off when the three minutes are up.

With that, Mr. McGaughey, we welcome your testimony.

JAMES D. McGAUGHEY: Good morning, Representative Fleischmann, and members of the Committee. My name is Jim McGaughey. I am the Director of the Office of Protection and Advocacy for Persons with Disabilities, and I'm here to offer comments on three bills that are on your agenda today: Raised Bill 1105, An Act Concerning Special Education; Raised Bill 6501, An Act Concerning Delays in the Evaluation and Determination Process for Students Suspected of Requiring Special Education Services; and, Raised Bill 6499, which makes minor revisions to the education

Recent scientific developments have pretty much indicated that even very small quantities of lead can have serious neurological effects on developing children, so it's something that being prepared to remediate is really important.

With respect to Raised Bill 6501, clarifying the responsibilities of school districts to promptly pursue consent for relevant evaluations, I think this is a response to -- to what is called RTI, response to intervention, which is a requirement now in federal law, that various attempts of interventions be made prior to referring somebody for special education evaluations.

Generally a good idea, but the problem is it can be used to delay evaluations for students where there is an obvious need for those evaluations, and that there is no conventional intervention that's likely to work. The example I cite in my testimony is somebody who has phonological processing problems because they are unable to distinguish between the sounds of certain word chunks. There are particular special education approaches that can help students like that. To make then wait six months or nine months while there are attempts, ineffective attempts made to intervene when that's what they need, really just frustrates everybody, and that student falls further behind. So, I would encourage you to support that bill as well.

And then as I mentioned, Bill 6499, sections that identify or that would give credit, academic credit, as a foreign language for students studying American sign language, there's a lot of interest in high schools and at the university level in learning ASL, but

there have been barriers in trying to enroll students in those kinds of programs and set up those programs. The absence of credit is one of the principal barriers, so I would urge you to support that as well.

And, that's all I have to say, so if there's any questions, I'd be happy to try and answer them.

REP. FLEISCHMANN: Thank you very much for that clear testimony. Are there questions from members of the Committee? Representative Lavielle?

REP. LAVIELLE: Thank you very much, Mr. Chairman. Good morning, and thank you for your testimony.

I have a question for you on the bill regarding the delays for admitting someone to special education, and I have actually been spoken to by a number of my constituents about this. It is certainly a concern, and I support the efforts to deal with it and expedite it. HB6501

I just have sort of a technical question for you, which is do you have some suggestions for criteria for determining when something is absolutely without question a cause for putting a student into a special ed program?

JAMES D. McGAUGHEY: No. The process envisioned in law of identifying somebody for special -- as eligible for special education and related services is something that results from a team recommendation following any number of different kinds of evaluations, and it's up to the team to determine which evaluations are appropriate for that particular student.

The -- the reason that there is no greater specificity I suspect is because it's a very individual decision, as it should be. It's, you know, the idea if you become eligible, you will receive an individual education plan because the general curriculum isn't going to work that well for you, and so I don't have like a check list of criteria.

Most of the concern comes from the community that worries about people with learning disabilities. That is the group that is most adversely affected by this RTA -- RTI approach, and I suspect -- I mean, as a parent of a child with a learning disability, I can sympathize that it's hard enough to get through the delays that are inherent in the process, and when your child is not getting it and school becomes a painful experience and they're feeling like everybody else is getting it, what's wrong with me, and it takes weeks or months for the evaluation process to go forward and for people to try various kinds of approaches, it's just an extraordinarily difficult situation to put families in, so I think that it's mostly students with specific learning disabilities that are harmed by the delays.

Incidentally, the federal -- the U.S. Department of Education has put out a memoranda -- a memorandum recently saying RTI should not be used an as excuse to delay appropriate evaluations, and I think it has to do with the expertise of the teachers, particularly a special ed teacher, sitting in and watching a child's behavior, watching a child interact with perhaps some curriculum material, and so forth, not really a formal evaluation, but to get a sense upfront and early on as to whether or not there might be some neurological impairment or some other

processing problem that's going to require special education. That's -- when that happens, that student should be -- should not have to wait six or nine months to determine that all the various interventions didn't work and they still need help.

So -- but, I don't have a clear check list of criteria for you. I wish I could.

REP. LAVIELLE: Well, thank you, and I didn't mean to put you on the spot with that question because I have heard too much about this from constituents not to know that it is a very agonizing situation for the parents and often for the child, and sometimes it can take an extraordinary amount of time from the teachers who could be doing something else when everyone recognizes that there is a problem.

I think any input in terms of suggestions about how that determination could be made quickly would be very, very helpful in putting language together that would work.

JAMES D. McGAUGHEY: There are some very good parent associations. The Learning Disabilities Association of Connecticut would be, I think, a really good source of that, of those kinds of ideas. They've always helped me understand it anyway, so they've helped a lot of parents over the years.

REP. LAVIELLE: Excellent. Thank you very much. Thank you, Mr. Chairman.

REP. FLEISCHMANN: Thank you. Any other questions for the witness? If not, we thank you very much for your testimony.

JAMES D. McGAUGHEY: Thank you.

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of the Committee? If not, thank you for your advocacy of the open choice system. We really appreciate it.

PEGGY ROELL: Thank you. Thanks for your help.

REP. FLEISCHMANN: Dorianna to be followed by Mark Allaben.

(Inaudible.)

AMANDA STRAUSS: Hi. First of all, thank you very much for hearing my testimony. I am not Dorianna (inaudible). She had to leave, and I am Amanda Strauss, and I am here to make my comments in her place this afternoon to address you.

First, this is the first time I've ever done this, so (inaudible).

I would like to comment today on two bills, and those 1105 and 6501. I am a parent and a businesswoman, and as a parent, I would like to say that I have -- what I would like to say is that I have decided to amend my testimony today from what my original comments were to address some of the misinformation that I heard, which I found to be really quite upsetting.

My experience with the PPT process is very different from the one that was described earlier today by Anne Louise Thompson specifically where she concludes or hopes to conclude the fact that the PPT is a team process and that the appropriate individuals who should be providing services will be provided, and that will be based upon their educational background and their certification and their ability.

In my experience during the PPT process, that did not take place. That -- if you as a parent were to question the credential of the person who is to provide services, you get quite a bit of push-back. In my case, I asked what the qualifications were of the SLP, speech and linguist pathologist. She -- she during the PPT commented to me she had a Master's degree, she had a Ph.D. in speech and -- I'm sorry. She had an undergrad and Master's degree in speech and language pathology.

When I presented her with her resume along with the courses that were offered at each one of the schools that she attended -- never ask a question you don't know the answer to, right? I asked her to please circle which one of her classes addressed the issue of communication skills for children on the spectrum, which was what my son's need were, and it amounted to one hour.

So, I guess I'm closing, and in closing, I would like to say I think that it is very, very dangerous for us to suggest that people who have less than the appropriate qualifications to administer necessary services to children who have needs are put into those positions, and I also -- I would like to say that I feel that in any way, shape or form implying that a child should have to go through the different processes before they can actually be tested for special services to see if they need to be part of the special education program, I think that's a very, very dangerous situation to put a child in.

REP. FLEISCHMANN: Thank you for that testimony. A quick follow-up. So the State Department's proposal involved a number of different aspects. One was that the person who's the

ABA certified individual be supervised by someone who's employed by the school district, and as I understood it, that sounded like a basic sort of administrative and legal responsibility type issue.

And then the second part, which I think has people more worked up, involves the notion that someone need not be ABA certified if there are other specialties that could go ahead and deliver the services.

Would I be right in surmising that the second part of the State Department's proposal troubles you a lot more than the first part, that it's the -- or are you equally troubled by both parts?

AMANDA STRAUSS: Quite honestly, I'm equally troubled by both parts having experienced situations in which both of those took place. My son is now eighteen years old, and he started in special services in the first grade,so we've been through every experience that you could possibly imagine.

We were horrified to discover that -- and I'm going to preface this by saying we're talking Farmington here, we're talking affluence area. We're also talking about a little maneuvering and conniving when the opportunity arose so that perhaps somebody was supposed to be under the auspices of someone with that level of expertise. An example would be the school psychologist. Well, that was interesting because the person who's supposed to be delivering services never, in fact, had any interaction with the school psychologist who, in fact, never had any interaction with any of the students. They simply administered tests to the children in special education.

So, I think unless we're very specific as to who is qualified and what it is that they're qualified to do, I think you're going to continue seeing these situations where (inaudible).

REP. FLEISCHMANN: Thank you for that clarification.

Are there questions for the witness before us? Hearing none, thank you very much for your time. I hope your child feels better.

AMANDA STRAUSS: Thank you.

REP. FLEISCHMANN: We now go to Mark Allaben to be followed by Eduardo Genao, and I apologize if I've mispronounced various names. Some of them are actually transcribed improperly and then some of them are read improperly by me, but I apologize, whatever the case may be.

MARK ALLABEN: Good afternoon. My name is Mark Allaben, and you did a good job pronouncing it. I'm on the CABE board of directors, the Connecticut Association of Boards of Education. I'm also the chair of our local board of education in Hebron, Connecticut, and I'm proud to tell you there are outstanding public schools in Connecticut.

Our elementary school was awarded a national blue ribbon award for the 2010-2011 year.

I'm here today to talk about House Bill 6502. CABE supports the provisions in Section 3 of House Bill 6502, An Act Concerning the Open Choice Program, which provides additional incentives to districts receiving significant numbers of students under the open choice program.

Thank you very much.

REP. FLEISCHMANN: Thank you. Are there questions from members of the Committee? Hearing none, thank you very much for your testimony and your time.

We go now to Kathleen Casparino to be followed by Martha Stone.

KATHLEEN CASPARINO: Senator Stillman, Representative Fleischmann, and esteemed members of the Education Committee.

HB6501

I have been an education advocate for over ten years. In this role, I guide individual families through the special education process by reviewing student records, creating action plans and attending school-based meetings. Throughout, I have believed that while complex to navigate, Connecticut's special education process was reasonable and fair. However, this view is now challenged due to the confusion ushered in with scientific research-based interventions, SRBI.

One of the most pervasive and harmful effects of SRBI as it is often implemented is the significant delay it causes in special education services due to understandable confusion on the part of districts. This lost opportunity for instruction cannot be regained.

The data gathering component of SRBI, while well intentioned, requires a tremendous number of resources that districts do not have. Districts that actually are able to collect the data required for SRBI usually have no reliable system for analyzing this vast amount of information. The result is children stuck

in a limbo of tiered intervention, neither closing the achievement gap nor being designated eligible for special education services.

Please amend House Bill 6501 to clearly state that comprehensive evaluations and eligibility determinations cannot be delayed while the SRBI process ensues.

And, there were -- there's a loose coalition of individuals that had hoped to testify, but it was the legislative staff's suggestion that we come up more as a panel, so I don't know if you want to ask questions, if you want introductions.

REP. FLEISCHMANN: Well, it's my understanding that you all share the same viewpoint. Is that correct, so why don't -- for the record, why don't you each introduce yourselves and say where you're from, and then we'll see if there are any questions.

ANDREW A. FEINSTEIN: Representative Fleischmann, Senator Stillman, I'm Andy Feinstein. I'm a full-time special ed lawyer representing parents. I do have a separate wrinkle that I'd like to add to this, if I may. HB6501 SB1105

The problem became very intense over the last year of school districts refusing to evaluate, refusing to designate kids as eligible for special education until they went through a one- or two-year process known as SRBI, a process which has a lot of problems which I've had documented in my written testimony.

As a result, Senator Cafero introduced House Bill -- I guess it's Senator Cafero -- introduced 5683, which said precisely what Ms. Casparino suggested, i.e., that no evaluation

or eligibility for special education could be delayed in order to finish the SRBI process.

That bill was introduced, and somehow 6501 emerged. 6501 does not cover the topic. 6501 is, in fact, a dangerous bill. It's a dangerous bill because it changes federal law, okay, or contradicts federal law by making the determination of whether there is a referral for special education exclusively a school district process by implication in the language, and by allowing parental consent to waive evaluation. That's very dangerous for a lot of parents who are not sophisticated in the system.

The federal law is that the district has a child find obligation, and the parents can refer for evaluation, and the district must evaluate without delay. Parental consent that can delay evaluations is not allowed under federal law and should not be legislated by the Connecticut legislature.

While I'm here, let me just say that 1105 is also a bad piece of legislation. In our Race For The Top, we should not be legislating a race for the bottom.

Thanks.

REP. FLEISCHMANN: Thank you. Before we move on, you've raised a question which leads me to want to just direct some clarification to our LCO attorney if I could.

So, you and others have asserted that in the modification of language from the original bill to this bill that is the Education Committee's bill, that something was lost, but it's my understanding that as drafted, this bill would cover SRBI and any other process

that delayed evaluation. But, I'd like to just turn the mike over to our LCO attorney to see if my understanding is correct, if that's -- if that's the intent and impact of the bill we have before us.

CHRISTOPHER J. CORDIMA: Yes, that was the intent. The language was taken from federal regulations. The attempt was to codify the state statutes as being put forward in federal regulations.

REP. FLEISCHMANN: So in terms of state versus federal law, your drafting attempts to have this bill fully aligned with federal requirements. Is that correct?

CHRISTOPHER J. CORDIMA: Yes.

REP. FLEISCHMANN: I'll take that double ring as a yes. Okay. So, I just wanted that on the record because, you know, lawyers occasionally may differ, and I recognize that, but I don't want there to be any misunderstanding about the intentions of this Committee. The intention of this Committee was not to go in a different direction than the original bill that you cited. The intention was, in fact, to go in the same direction, but without specifying a program, which is something that you don't normally do in Connecticut statute. We normally go for the broad rather than the specific in order, A, to make sure we encompass more circumstances, and, B, because it is considered bad drafting form to enumerate a specific program.

So, I just wanted you to have that context.

ANDREW A. FEINSTEIN: I appreciate that, Representative Fleischmann. I will draft a

memo and send it to the legislative counsel with my concerns about the way this is drafted. If, indeed, your intent is the same as ours, there should be no issue about that.

REP. FLEISCHMANN: Okay. We'll certainly be interested to see what you have to put before us.

If we can continue to go around. Go ahead.

M. JEFFRY SPAHR: Good afternoon, Senator Stillman, Representative Fleischmann. My name is Jeffry Spahr. I'm the deputy corporation counsel for the city of Norwalk, but I'm here in a more important role. I'm here as a parent of a boy that has ADHD, is on the autism spectrum, and has co-morbid learning disabilities. HB 6501

Others are practitioners of this, and they will appear before boards and agencies in the school district and will have a greater knowledge about the ins and outs and how these are applied. My experience pool is one, but I would say that my experience pool was, without going into detail, that my son was allowed to languish in a purgatory state between not being in special education and being in special education.

As a lawyer, when we go into court, we often say justice delayed is justice denied, and I would say that special education delayed is special education denied, that under the IDA, there's two prongs. One is to find the child that is in need of special education related services, and two is to provide it in a timely fashion.

If you haven't provided both of them, you've provided essentially neither of them because to allow a child to be in that situation is

devastating to the child.

It's coincidental in a way that you would have on the same docket as this the case dealing with Sheff versus O'Neill decision, and the Sheff versus O'Neill decision, one of the things that's lost is not only the decision of the Sheff versus O'Neill decision, but when they got down to the brass tacks of whether or not they were going to implement it right away or how they were going to go about passing it, the Connecticut Supreme Court made the following statement, and I think it's apropos to what we're talking about as far as delay.

The Connecticut Supreme Court said every passing day denies these children their constitutional right to a substantially equal educational opportunity; every passing day short changes these children in their ability to learn, to contribute to their own wellbeing, and to that of this state and the nation; we direct the legislature and the executive branch to search for the appropriate remedial measure at the top of their respective agendas.

And, I would say that if a child is not properly identified in a timely fashion, each day he, too, or she, too, is being denied that right to have an equal education.

Whereas in the Sheff versus O'Neill they're asking the legislature to put it at the top of their agenda, it's on your agenda, so I'm kind of happy about that.

So, in closing, I would just say that the reason -- Representative Fleischmann, the reason why there was some concern about -- and I understand and your point's well taken about the specific delineation -- I think if you

read the electronic testimony -- and I've submitted some, and I know other people have submitted some -- whereas everyone will say in the guidelines that's not going to happen, we're not going to violate the federal law, I think we're here as a team to tell you it is happening, and so the only reason that we had asked for a specific designation was to make it like an exclamation point, highlighted in bold print, italicized, so that people in the field when they're trying to implement this will understand that it's a federal regulation including the SRBI.

One second. As a coincidence, I happened to be at a deposition on Friday because I happen to represent the board of education in litigation, and I just mentioned to the principal that I was coming up here, and the principal said, oh, yeah, that's how we do it; we wait until we get to the end of the SRBI because we have to reach all these data points, and I said, well, that's why I'm coming here today.

So, thank you for your time.

REP. FLEISCHMANN: Thank you.

RENA SCHINE: My name is Rena Schine. I'm a school psychologist and education advocate for the Connecticut Association for Children and Adults with Learning Disabilities.

HB6501

I happen to represent CACLD on that RTI committee as the advisory panel in 2006-07, and I just wanted to share that the panel -- not all the members of the panel agreed with the idea that the student should go through the long process of 20 to 40 weeks of SRBI. I and many others felt -- and this committee,also -- that informed intervention

needs to be prompt and should be based on hard psychological data about the strengths and weaknesses of a given child, not through the trial and error that's typical of the RTI process, namely, that they should have a comprehensive evaluation once it appears that children are struggling and are going to need some help.

The three-tier RTI paradigm was not intended to be another rigid, arbitrary, prescribed formula like the discrepancy model which was thrown out and RTI was put in its place. We have to be careful about trying to fit human behavior into mathematical equations that will delay the comprehensive evaluation to determine what kind of targeted help a child will need.

So, I am respectfully urging you to amend H.B. 6501 to explicitly specify that the SRBI process should not delay a comprehensive evaluation or special education eligibility determination and that I hope you will pass the law as written.

Thank you for letting me share that.

REP. FLEISCHMANN: Thank you for that clear, brief testimony, and may I ask? Could you tell me what SRBI stands for?

RENA SCHINE: Yes. Scientifically Research Based Instruction. It's really another word for RTI, but we in Connecticut wanted to highlight that because that seemed to be the most important thing about RTI, that they use scientifically research based instruction. It's just another word for RTI.

REP. FLEISCHMANN: Thank you.

Now, the sign-up sheet said Kathleen Casparino plus three. I see -- I see plus six, and I'm just aware of the fact that there are still about a dozen other people who signed up, so I guess I would ask the additional three people: Are you signed up on our list?

RENA SCHINE: They're parents, so I just -- I think (inaudible) are parents. If there are any questions for specific parents who have experienced delays through SRBI, there's your expert panel.

REP. FLEISCHMANN: Okay. Thank you for coming. Why don't -- for the record, why don't you go ahead and state your names, please, and your home towns.

KATHLEEN TSOU: Kathleen Tsou from Westbrook.

MELINDA ROSSI: Melinda Rossi from Cheshire.

PAULA MARCHESE: Paula Marchese, Madison, Connecticut.

REP. FLEISCHMANN: Thank you all for coming and for making your presence felt here.

Are there questions from members of the Committee regarding the testimony that you just heard? Representative Lavielle?

REP. LAVIELLE: Uh, something rang. Thank you, Mr. Chairman, and thank you all for your testimony. I know that we've covered this to some extent previously, but I just would like a clarification just for analysis purposes.

Are any of you aware of any other process causing delays to the extent that SRBI does since it was -- since we started to implement it?

ANDREW A. FEINSTEIN: Representative Lavielle, there is no other specific process (inaudible). There is some ambiguity about when a district can, despite a parental request for evaluation, decides not to evaluate, and that exists in federal law, and that's not something that we can correct here today.

So, there are times when a district says notwithstanding a parental request, that the kid does not present in a way that needs an evaluation. That's the only other delay that I'm aware of.

REP. LAVIELLE: Okay. Thank you very much. I appreciate it. Thank you, Mr. Chairman.

REP. FLEISCHMANN: Thank you. Other questions for the folks who (inaudible)? If not, thank you -- oops, Representative Guiliano?

REP. GUILIANO: Thank you, Mr. Chairman.

Thank you for your testimony. I do appreciate it. I have to say, though, that, you know, as a current practitioner, I'm quite astounded -- and I think Mr. Spahr, you were the one who spoke to 20 to 40 weeks of SRBI in order to collect data points. And, again, I frame this as a friendly question.

M. JEFFRY SPAHR: If I may, I think it was Ms. Casparino. (Inaudible) I'm not sure about the 20 to 40 weeks.

KATHLEEN CASPARINO: I said that.

REP. GUILIANO: Thank you. Then whomever feels best suited or willing to speak to this, I'm interested to know was there something that

was constructed in practice in statutory language within the state of Connecticut in the development of RTI, SRBI, that in some manner pushes such a prolongation of tiered intervention, because I have to tell you as a practitioner myself, 20 to 40 weeks of SRBI as an experience of parents in Connecticut I find to be astounding.

KATHLEEN CASPARINO: Well, two of the parents here, Kathy's son was in SRBI tiered intervention, tier two and three, for a year and a half, and only after she hired an advocate was she able to get him found eligible for special education services, and Melinda Rossi's daughter has now been in SRBI services for over two years and has continued to be receiving services, and I think the problem is, again, it's a problem of districts don't have the resources and were not ready for SRBI, so children are placed in tiered intervention, and there's no clear communication on when and how you get from two to three, and how you would go from tier three to special education referral, so it really is limbo.

Once you get into tiered intervention, at least, in my experience you stay there.

REP. GUILIANO: I appreciate the examples. I have to say I'm pretty horrified by them. It has not been my experience, but again, my experience is more limited being a district level practitioner than yours, apparently, and I wonder whether you might suggest to this Committee -- and, again, I'm not one for over-regulation, but if this presents as a problem where you get stuck in a tier and you never -- regardless of the shifting of tier from one to two to three, you never graduate out or it takes an entire academic year or

longer, then that to me is a convoluting of the business of response to intervention.

The nature and definition of response to intervention is to give a kid a specific course of treatment, in this instance academic treatment, and to measure over a discrete and defined -- well, perhaps not defined, but at least a discrete period of time which I'm going to, again, just as a practitioner construe to be in many instances approximately four to six weeks. When I sit with parents, I'm interested in the time. I'm not interested in that time interval, and an interval of four to six weeks of targeted instruction typically will let you know whether or not a kid goes up, a kid goes down, or a kid goes nowhere, and every single one of those benchmarks is illustrative of what to do next.

So, I would simply, once again in a friendly way, ask for your suggestions either now or at an imminently subsequent point to help us out, so it's not to over-regulate, but to prevent the problem of being stuck in tiered intervention for such a long period of time. And, again, I can't even speak to two years. I find 20 to 40 weeks egregious.

ANDREW A. FEINSTEIN: May I just say about that, Representative Giuliano, that the state put out a framework for SRBI, and in there it specifies that tier two and tier three each are eight to 20 weeks, so that's in this guidance that's put out by the State Department of Education. The problem, as Ms. Casparino made quite clear, is that the districts just aren't ready for the amount of work that SRBI involves, and so there are delays in starting the tiers and, unfortunately, the 20-week ceiling often

becomes a floor.

KATHLEEN CASPARINO: Could I comment? One very important -- after the Rossi PPT where I found the child had been in tiered intervention for over two years, I did call the State Department of Special Education to say this is what we've all been predicting, and I was told welcome to my world, there's nothing we can do about that.

So, that is actually -- that was the genesis for creating this, an (inaudible) for your oversight.

REP. GUILIANO: I really do appreciate your comments and your point is well taken. I do understand that there can be a lack of preparedness on the part of districts to respond to this level of data-driven information that an SRBI model might require.

Thank you, Mr. Chairman. I appreciate your indulgence in allowing this colloquy to continue. Thank you.

M. JEFFRY SPAHR: Can I just add one thing?

REP. FLEISCHMANN: Sure.

M. JEFFRY SPAHR: Representative Giuliano, in my electronic testimony, I pulled an excerpt from this -- there was the SAC report of 2010, and in that, the recommendations, the second recommendation right at the height of the report, which is attached to my testimony, they specifically cite an example of when a kid was a year and a half,so even the SAC report, it said look, guys, this is going wrong here, we need to do something about it.

So, thank you.

REP. FLEISCHMANN: Any other questions for the folks right here? Representative Johnson?

REP. JOHNSON: Thank you, Mr. Chair. Thank you for your testimony today.

I just was curious about the different districts that you come from and wondered what some of the problems were with trying to implement or trying to find the qualified staff to be able to perform these evaluations.

KATHLEEN CASPARINO: I'm an educational advocate, so I go to districts throughout the state, so I'm not in one place, but I just see districts struggling with how to collect this data and analyze it and make decisions. Come up.

ANDREW A. FEINSTEIN: I teach as an adjunct at Central special education law to working teachers who are getting their Master's in special education, and last semester I just got an earful about the incredible burden of implementing this program, the level of data that has to be collected, and that teachers are, frankly, not being allowed to teach because they have to collect this data.

And, I was actually surprised at the level of teacher anger about the SRBI process, and this was districts throughout at least central Connecticut who went to Central, so I think it's a pretty broad problem. Where it works best is in districts where there's an aide in the classroom whose job it is to collect the data while the teacher administers the teaching. That's happening less and less as budgets get smaller and smaller.

REP. JOHNSON: Just to follow up a little bit on that, in terms of trying to find -- so, do you

think it has to do with not having enough qualified people to be able to do the analysis overall, or is it just the data collection that is the issue?

ANDREW A. FEINSTEIN: I think it's both. I think the -- I think trying to design a data collection program, trying to see what you can count that's meaningful and objective and relevant is an enormous task, and then when you get the data, actually analyzing it and understanding whether the child is making progress or not, and that is, of course, one of the misnomers of the SRBI program, that to be scientific you have to analyze it and then apply interventions which produce results, and we're just not getting there because there aren't people, enough people in enough districts who know how to do that, and it's not easy stuff. I mean, this is tough stuff.

REP. JOHNSON: That's part of my concern is that we don't have enough qualified people to do the analysis to try and make sure that we have the right children going into the right kinds of special education programs, and we're finding that they are, as was testified here today, we're finding that they are having delays in their educational plans, and then they're way behind in their progress through the school systems.

RENA SCHEIN: Do you want me to comment?

REP. JOHNSON: Thank you for your testimony today. Oh, did you --

RENA SCHEIN: Yes. I'd just like to make a comment, general comment, since I was on that panel.

We never intended for this to be so rigid. We

talked about it being a fluid experience where they would even go from tier one to tier two and maybe back to tier one. It wasn't intended to be a reified concept, and I think part of the problem is some of the school people think of it as a thing rather than an idea of how to approach children in the beginning, and I think the other problem is that when they -- too much of it is trial and error with all that data because they don't do a comprehensive evaluation, so they really don't know what are the underlying problems that a child is struggling with that is causing him or her to have difficulty.

So, it's gotten to be just too rigid when it was not intended to be such a rigid operation.

REP. JOHNSON: Well, that was something that I kind of felt was coming through some of the testimony, is there was supposed to be some type of a teaching process going along with the evaluation process so that the children wouldn't be held back, and it seems like they're just trying to do the evaluation without the teaching.

Is that what I'm hearing?

RENA SCHEIN: No. I -- I -- we're talking about two different kinds of evaluation. When we talk about data, they're talking about the data that's evaluating the child as the child is being taught, and basically they're evaluating a specific skill, not so much what's going on with the child that is causing the problem in the first place.

The data is measuring in SRBI and RTI -- is measuring a specific skill that the teachers are working on. What I'm talking about as a school psychologist is finding out why the

child is having the difficulty in the first place so we can target the strategy for teaching the child to as much as possible what's causing the problem in the first place, not just developing skill, skill, skill and trying to analyze that data.

REP. JOHNSON: So, they can't do it just by administering a test and then finding out where the, you know, special needs are and then creating a plan?

RENA SCHEIN: Well, there are different kinds of tests. One is the test -- the criterion referenced test. They teach push-ups, and then they measure, you know, can the child do the push-ups, but we need to also measure if the child can't do the push-ups, is it the upper body strength? Is it a heart problem? It is a foot problem? Why can't the child do the push-up. But the teachers -- and correct me if you differ with what I'm saying -- a lot of what they're teaching is the skill -- and measuring -- they're measuring can the child do that skill, not so much if not, why not.

KATHLEEN CASPARINO: And, I think the problem is every district is allowed to have its own method of data gathering, and it's very difficult to ascertain what the reliability and validity of those instruments are. Every time you go to a meeting, you're starting all over again, trying to find out, well, what are you using to assess these skills, and oftentimes the assessments are inadequate.

M. JEFFRY SPAHR: And, Representative Johnson, keep in mind --

REP. FLEISCHMANN: You know, we have a system here where comments are supposed to come in response to questions, and there are still a

good dozen people who are signed up and waiting to testify, so out of respect for them, here's what I'd like to suggest.

You all have made some very clear points about problems in the system, and there are some attorneys on your panel and some specialists. If you have some additional language that you'd like to get to us that you think would address this set of problems that you've identified, we'll be happy to go ahead and screen it and figure out what would align with Connecticut's, you know, normal statutory drafting systems.

M. JEFFRY SPAHR: Thank you for your indulgence.

RENA SCHEIN: Thank you.

REP. FLEISCHMANN: Thank you. We'll hear next from Margaret Cohan to be followed by Martha Stone. Are both Margaret and Martha (inaudible)?

(Inaudible.)

REP. FLEISCHMANN: Oh, there are you are. Welcome. You have great patience, as you must have for all the things that you work on.

MARTHA STONE: Yes, thank you. Senator Stillman, Representative Fleischmann, and members of the Committee. My name is Martha Stone. I'm the executive director of the Center for Children's Advocacy. I am also co-counsel for the plaintiffs in Sheff versus O'Neill, and I've been co-counsel for over 21 years.

I am testifying today in support of Bill Number 6502. On behalf of the Sheff plaintiffs, we strongly urge you to support this bill for four main reasons. The first reason is that meeting -- without the

Supreme Court mandate is about race discrimination and integration. It's something that we have talked with the -- a couple of the Commissioners of Education about, would we look at economic, socio-economic status. I think that's something that we can look at. I'm not prepared today to support without looking at actual language.

You know, we've been at this case, as I said, for a lot of years. I thought that the most dramatic thing was the gentleman over there who quoted the Supreme Court passage which says every passing day, school children are being denied their constitutional rights, and we have watched eight Commissioners now, we've been to about five different Superior Court judges on this case, we've watched the open choice program not reach its potential, and I think it's now time for this legislature to put some teeth into the open choice program through funding and through mandates so that the children can reach the court order.

I mean, they are entitled to this, and the Supreme Court said so many years ago.

REP. FLEISCHMANN: Thank you. Questions from members of the Committee? If not, we thank you for your testimony. I for one feel validated. I said exactly what you said to Mr. (inaudible) when he asked about socio-economics versus race.

Diane Willcutts to be followed by Marge Gillis, if she's still here.

DIANE WILLCUTTS: Hi. I'm Diane Willcutts. I'm here to testify regarding 6501. I'm here on behalf of Smart Kids With Learning Disabilities, and I am also a parent of two

school-age children with disabilities as well as an education advocate.

I actually am testifying in support of 6501, although I have similar reservations to it as the people who are testifying against it. I think that it's an important bill and that it needs to be modified to better align with the federal law. Right now, the way it's written, it actually restricts or it unintentionally limits what Connecticut does in that it says that the consent needs to be sought when a board suspects that a child may have a disability.

In fact, in the federal law, it says when a parent or the board. It doesn't matter which, and because, certainly, a parent says, gee, my child might have a disability, I think we need to evaluate, that doesn't constitute written consent, so -- and a lot of parents wouldn't realize that they need to provide that.

The written consent in this is critical because that's what starts the clock ticking. If we don't get the parent's consent, then there is no deadline by which we have to have the evaluations complete.

One of the big concerns that came up when I read this is absolutely Connecticut's SRBI process. It is a huge obstacle for kids with disabilities in getting services right now, and I know it's unintentional, but it's definitely a huge issue, and actually it's so much a big issue that OSEP recently issued a memo about the issue in January, and it said it has come to the attention of the Office of Special Education Programs that in some instances, local education agencies may be using response to intervention -- which Connecticut calls SRBI -- strategies to delay

or deny a timely initial evaluation for children suspected of having a disability, and we're not allowed to do that. It's not optional. Child funding is not optional. We've accepted in the ballpark of $127 million in IDEA funds, and we need to fulfill our obligations by identifying children who need special instruction.

Let's see. OSEP guidance has been really -- this actually comes up in many situations. A lot of times it's not just SRBI, but if the student is suspected to have a disability that isn't considered to be severe, we often will think, well, the child doesn't rate -- the child doesn't meet the standard of a child who would receive special education services, and that also is incorrect. And so, hopefully, if we did make changes in the -- in the bill to reflect that it is also parent referral as well as board referral, I think that it could actually be very helpful to students.

REP. FLEISCHMANN: Thank you.

DIANE WILLCUTTS: Thanks.

REP. FLEISCHMANN: Are there questions from the Committee? If not, thank you very much for your testimony and your advocacy.

Is Margie Gillis still here -- oh, there she is -- to be followed by Laurie Bloom if she's still here.

MARGIE GILLIS: Senator Stillman, Representative Fleischmann, and members of the Committee. My name is Margie Gillis. I'm a research affiliate at Haskins Laboratories and president of Literary How, an organization that provides professional development for teachers across the state, and I'm here in

HB6501

support of An Act Concerning Delays in the Evaluation and Determination Process, again to ask that you amend the bill so that the SRBI process does not delay comprehensive evaluations and special ed eligibility.

Over the past several years, I served on two task forces where the members debated these very issues with great zeal and deep-seated emotions. The first was the task force that developed the state guidelines for Response to Intervention, which we affectionately call SRBI. The other was the task force that revised the LD Guidelines for the state.

Those task forces had several members, including myself, in common, and, of course, were solidly represented by the State Department of Education. There's between us two sets of guidelines. There's strong overlap, and ideally the documents, at least in theory, should support, strengthen and substantiate each other.

However, as those of us who've been around know, the devil is in the details, and these are two situations where there are tremendous details that need to be discussed and ironed out.

As a former special education teacher, I want to speak on behalf of the children who are identified with learning disabilities or have learning disabilities that have not been identified since they can't advocate for themselves.

These students, the majority of whom have reading disabilities, are oftentimes either missed altogether or mistaught. Our state is one of many that does not use the term dyslexia, otherwise known as reading

disabilities, and as a result, many of these students also suffer from what I call dysteachia, and I'm not -- you know, I say that with all due respect to teachers. I'm not blaming them because this is a case where teachers often don't know what they don't know, and in many cases, teachers' hands are tied both because they don't have the background knowledge that they need in learning disabilities and reading disabilities, but they're often told by their administrators that they should not refer for special education.

I just got an e-mail the other day from a colleague from a large urban district who said, I quote: SRBI is not being implemented with fidelity or anything approaching fidelity by regular education personnel in many places.

Response to intervention is the very process that was meant to ensure that prevention and early intervention were the rule for our most vulnerable children, and it is now the mechanism that is preventing these children from receiving the target intervention that they need, so I'm asking very quickly in closing, the State Department of Ed has three extremely important jobs to do.

First,they must ensure that prospective special ed teachers are trained in the research about reading, and currently the special ed teachers do not have to take the Connecticut Foundations of Reading test to be certified. I think that should be changed.

Second, I think the State Department should hold accountable districts for providing high quality professional development for their teachers, and they can do this by enforcing CEU language, and third, that with the strong

policies that Connecticut has in place currently, the State Department of Ed should enforce those policies and hold districts accountable for upholding the federal and state laws that mandate quality instruction for children identified with LD.

Thank you very much.

REP. FLEISCHMANN: Thank you for your very thoughtful testimony and for all the work that you've done to enhance literacy in Connecticut.

Are there questions? Senator Stillman?

SENATOR STILLMAN: Thank you, Mr. Chairman. Good evening, and thank you for your testimony.

Have you submitted it yet because you just made some very good points.

MARGIE GILLIS: I have.

SENATOR STILLMAN: It's not in the system, so we'll look for it.

SB1106

One thing that you mentioned about teachers being trained in reading, would you expand on that a little more because we have an IEP bill in front of us, and it specifically calls for teacher -- training teachers, all teachers that are in special ed areas. I'm just -- it says more than that. I'm just quickly stating the obvious. And, we've been told it's not necessary.

MARGIE GILLIS: That training is not necessary?

SENATOR STILLMAN: Because unless a teacher is going to go into special education as their focus, then the other teachers don't need

MARGIE GILLIS: Yes.

SENATOR BOUCHER: Just as doctors have to be retrained in new processes and inventions, medication and certainly medical devices, it stands to reason and it's logical that that would certainly be the case in education and, in fact, should be mostly focused in education. Thank you.

MARGIE GILLIS: I also quickly just want to say that the CEU language that I alluded to earlier I think is also a place where we could make sure that the regulations are there to provide of the 90 hours that teachers have to take every five years to update their certification, that we could embed again research-based reading instruction into that content and have an accountability piece built in as well.

SENATOR STILLMAN: Representative?

REP. LAVIELLE: Thank you, Madam Chair. Thank you for your testimony, and you have given us such a full and thorough picture of how gaps in training might account for some of the delays and other lapses that we can see with this program that I would value your opinion on something that's a little less technical and a little more fundamental maybe. HB6501

I want to be sure, having heard all of this discussion, that coming out of this, that we understand. What is your assessment besides training of any other reasons that might account for the potential delays apart from training? You can imagine lack of clarity about the obligations other than mandate or simply carelessness or not understanding what's going on, but is there anything that you think is fundamentally behind some of

these delays that we should know about?

MARGIE GILLIS: You know, I honestly feel that the people that I've worked with in the different districts have been incredibly open to learning about the process, and part of what I've done is help student intervention teams understand the process, the RTI process and what that entails; to look at the decision rules that must be applied for moving a child from a tier one intervention to a tier two to a tier three, et cetera; when do you stop that process and say this child is clearly, you know, a child with learning disabilities and needs to go through a referral process, et cetera.

They're really struggling with it because it's not simple at all. There's so many pieces to this puzzle, and there's so many people that need to be together at the table. Part of it is do they have time to talk and work together as teams? Again, that's -- you know, you're making a touch decision. You take the teacher out of the classroom for that team meeting and deprive that teacher's students of his or her valuable instructional time?

These are not easy decisions to make, and so everyone is really struggling with how to do it well, how to do it with fidelity, how to do it so that the child's interests are at the center of the discussion, and so I think providing districts with clearer ideas about how to make this work and how to really take something that's quite complex and involved and do it so that it's done well, and I think we can look to models where we are doing a good job, both in the state of Connecticut and outside of the state of Connecticut, for guidance in how to do that well, because we truly are -- you know, I hate to use the

cliche, but we are truly flying the plane and building it, and we're doing it not just here in the state of Connecticut but all across the country.

We still don't have clear evidence from research about how best to apply RTI, and yet we are told that we have to use that as the process.

REP. LAVIELLE: That's a complex situation.

MARGIE GILLIS: It is, very.

REP. LAVIELLE: That's the definition of a complex situation.

MARGIE GILLIS: It is.

REP. LAVIELLE: I thank you for that. It's -- I guess it's not surprising that we have run into some glitches like this --

MARGIE GILLIS: Yes.

REP. LAVIELLE: -- as we navigate in our work. Obviously, in the end (inaudible) it would be very useful. Thank you.

MARGIE GILLIS: Thank you so much for the time and your questions. I really appreciate it.

SENATOR STILLMAN: Thank you. Any other questions? Thank you so much.

MARGIE GILLIS: You're welcome.

SENATOR STILLMAN: Laurie Bloom to be followed by Martin Mador.

LAURIE BLOOM: Good evening, members of the Education Committee. My name is Laurie Bloom. HB6501

I've been a resident of Connecticut for over 30 years, and I offer this testimony today in support of House Bill 6501 as both a parent of an adult child with a reading disability and as a member of the Legislative Advocacy Committee of the Connecticut Association for Children and Adults with Learning Disabilities.

I wholeheartedly support the intention of 6501 to prevent delays in the evaluation of children to determine their eligibility for special education services. However, the bill as written fails to address the role of Connecticut's Response to Intervention through the multi-tiered SRBI program set forth in the 2010 Guidelines for Identifying a Child with a Specific Learning Disability, and the previous speakers have I think addressed that quite well.

If schools are allowed to continue to hide behind SRBI as an excuse for delay in determining eligibility for and implementing appropriate special education services, they are acting in violation of IDEA to provide a free and appropriate education. Response to intervention becomes a catch phrase for response to failure, which was the standard operating procedure when my son entered elementary school almost 20 years ago.

I believe it was Ben Franklin who famously said time lost cannot be found. This is never more true than for struggling young readers where early and appropriate reading instruction lays the foundation for all other learning and ultimately for their future success beyond primary and secondary education.

As a parent, I began my special education

journey more than 20 years ago when my son was still in pre-school. Notwithstanding that he had his first IEP when he was three years old, he continued to fall further and further behind his peers each year. By the end of third grade, my nine-year-old was barely reading on a first grade level, couldn't spell and still had trouble printing letters, although diagnostic testing indicated he had the vocabulary of a 20-year-old.

We placed my son in a private special education school and brought a due process action against the school district. After twelve days of hearings over a period of almost fourteen months, the hearing officer ordered the school district to pay for the placement and transportation. Because they had failed to provide appropriate special education services at a critical stage of learning, my son still faced huge obstacles in order to compensate for his dyslexia, catch up, and ultimately succeed.

My son continued in private special education school placements at the expense of my local school district for ten years, including extended school year for at least six years, due in large part to the delays in receiving appropriate special education services at an early age.

At nineteen, my son graduated from high school with two diplomas, one from his special education high school and one granted by Weston High School. Although he was never a student there, he had satisfied the Weston graduation requirements at his private placement.

Four years later, last May 2010, my son graduated from college, cum laude, with a

Bachelor of Sciences degree, ranked number one in his department. This does not mean that he was no longer dyslexic or that any of this came easily. On the contrary, my son always had to work harder than his peers or his siblings to find his success. Even after he exited the protection of the IDEA, he still required accommodations for his learning differences in order to succeed in college.

My son has become a skilled self-advocate which was the key to his success in post-secondary education and will allow him to continue to achieve and exceed all expectations as a lifelong learner, even though --

SENATOR STILLMAN: Excuse me.

LAURIE BLOOM: -- even though he happens to be dyslexic.

SENATOR STILLMAN: Excuse me. Could you start -- over here -- I'm in front of you. Could you kindly wrap up, please?

LAURIE BLOOM: Yes.

SENATOR STILLMAN: Thank you.

LAURIE BLOOM: While my son's story has a happy ending, it must be noted it did not come without years of frustration for him and his parents. It has also come at a great financial cost to our local school district and tax payers. This scenario can be avoided in the future by ensuring that all students suspected by their parents or teachers of requiring special education services receive prompt evaluations and are then properly identified. Other children will not have to endure the long-term challenges that my son

faced due to years of delay based on a response to failure model.

It is important that this bill be amended to reflect Connecticut's Response to Intervention program and now allow RTI to be a cause or excuse to delay or deny evaluations and appropriate services to children with learning disabilities.

I urge you to support Raised Bill 6501 with the aforementioned amendment included.

And, I thank you for your time.

SENATOR STILLMAN: Thank you very much for your testimony. Any questions? Thank you.

Martin Mador? We'll go on to Annmarie Hillman.

ANNEMARIE HILLMAN: Good evening, Senator Stillman and members of the Education Committee. My name is Annemarie Hillman, and I'm a policy fellow at Connecticut Voices for Children.

I'm here tonight to testify in support of changes to the truancy statutes as proposed in H.B. 6499. I have three main points about these changes.

First of all, Connecticut Voices for Children strongly supports the proposal that would require family with service needs petitions to be filed within 30 days of a parent or guardian's failure to cooperate with a school's attempts to reduce a students truant behavior.

This is not a huge change to current law, but rather incorporates a time line to current law and helps children get services as soon as

VIVIAN CROSS: Good evening, members of the Education Committee. I'd like to thank you for your long patience. This has been a long day, I'm sure, for you, but I'm going to be brief because I just want to say that basically I'm in support of Raised Bill Number 1105, An Act Concerning Special Education, specifically Section B, as well as Raised Bill Number 6501, An Act Concerning Delays in the Evaluation and Determination Process for Students Suspected of Requiring Special Education.

My background basically is in special education both as an administrator, I served as a teacher, I served on the university level, I'm currently the executive director of the Foundation for Educational Advancement, and I also serve on the state of Connecticut board for the Office of Protection and Advocacy for Persons with Disabilities.

In addition to that, I serve on the national level for the Centers for Disease Control's education work group that deals specifically with children who are less (inaudible), and the work group focuses in on finding ways to ensure that these children get appropriate services.

As I said, my latest concern is compliance with federal law, and Raised Bill Number 1105 specifically outlines the need for guidelines in reference to ensuring that school districts across the state comply with federal law, individuals with disabilities act, both part B as well as part C, in addition to Section 504 of the rehabilitation act.

There are a number of cases that I've currently been involved with where children have been delayed services for three, four,

Education Committee
March 7, 2011

TESTIMONY OF

GEORGE A. COLEMAN, ACTING COMMISSIONER OF EDUCATION

ON

RAISED BILLS 1102, 1103, 1105, 6498, 6499, 6500, 6501, 6502

RAISED BILL 1102: AN ACT CONCERNING AUTHORIZATION OF STATE GRANT COMMITMENTS FOR SCHOOL BUILDING PROJECTS AND CONCERNING CHANGES TO THE STATUTES CONCERNING SCHOOL BUILDING PROJECTS

The State Department of Education (CSDE) **supports** Raised Bill #1102, *AAC Authorization of State Grant Commitments for School Building Projects and Concerning Changes to the Statutes Concerning School Building Projects*, to authorize state grant commitments for school building projects and to establish the School Building Projects Advisory Council.

Section 1 of this bill contains the school construction priority list that CSDE submits annually to the General Assembly for approval.

Section 2 of this bill establishes a School Building Projects Advisory Council. Input from and discussion among agencies and industries involved with construction and state financing is extremely valuable for the school construction grant. The CSDE Bureau of School Facilities has been engaged with design professionals and construction managers and town and school business finance representatives for years on a more informal basis.

However, with that said, this advisory council conflicts with the Governor's bill outlining changes to school construction. That expertise would be provided by the new Department of Construction Services.

As such, CSDE **supports** Raised Bill # 1102.

RAISED BILL 1103: AN ACT CONCERNING EARLY CHILDHOOD EDUCATION

The State Department of Education (CSDE) **strongly supports** Raised Bill #1103, *AAC Early Childhood Education*, as it represents a number of the State Board of Education's Legislative proposals for this Legislative session.

Section 2 of this bill allows for the distribution of unallocated competitive school readiness funds to *any* eligible grantee that may serve additional children. Current law allows for the distribution of unallocated competitive school readiness funds to towns with two or more priority schools if they can provide additional spaces for children. The fifty poorest towns are also eligible to receive a competitive school readiness grant; however, they are currently ineligible to receive additional unallocated funds, even if they have the ability to serve more children. This change will allow more children to be served.

As such, CSDE **supports in part and opposes in part,** Raised Bill 6500.

RAISED BILL 6501: AAC DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES

The State Department of Education (CSDE) **opposes** Raised Bill #6501, *AAC Delays in the Evaluation and Determination Process for Students Suspected of Requiring Special Education Services,* to prevent delays in the evaluation process of children suspected of requiring special education and related services.

This additional language does not align with the Federal requirements of the Individuals with Disabilities Education Act (IDEA), which describes procedural requirements, which must be met before (1) the PPT determines that an evaluation is warranted and (2) asks for parental consent to conduct the evaluation. These prior procedures include (a) convening a PPT meeting to discuss the referral, (b) reviewing of existing information to determine if an evaluation is warranted and if so, (3) whether or not there is sufficient information on the child to determine eligibility and write an IEP without doing additional evaluations. If additional evaluations are warranted, it is at this point in the process that parental consent is requested.

As such, CSDE **opposes** Raised Bill 6501

RAISED BILL 6502: AAC THE OPEN CHOICE PROGRAM

The State Department of Education (CSDE) **strongly supports** Raised Bill #6502, *AAC the Open Choice Program,* as it represents a number of State Board of Education's Legislative proposals for this Legislative session.

Section 1 of the bill would allow CSDE, within existing resources, to fund the creation of Crandall school programs beginning in school year 2012. This program will allow CSDE to take advantage of existing classroom space made available in districts in the Hartford region that are experiencing declines in enrollment and thereby closing classrooms and school buildings. These facilities offer an unprecedented opportunity to expand the number of seats available to Hartford students for purpose of meeting the Sheff Phase II Stipulation and Order.

As conceived here, the 2011-12 fiscal year would be utilized to prepare and send out a Request for Proposal (RFP) for districts interested in opening a Crandall school program in 2012-13. The Crandall school programs would be developed to increase capacity for Hartford students in suburban communities and vice versa as a cost effective hybrid version of the Open Choice/Magnet programs. Programs can be developed by districts to offer a wide variety of new or expanded services locally while being considerate of overlap with existing choice programming in the region.

CSDE **recommends additional language** to this section of the bill to allow the Hartford public schools that develop Crandall school programs a three-year period to reach an enrollment in the program of at least 25% non-minority students. This recommended addition is similar to the provisions provided for Hartford magnet schools when opening.

STATE OF CONNECTICUT

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Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Education Committee

Presented by: James D. McGaughey
Executive Director
March 7, 2011

Good morning and thank you for this opportunity to comment on several of the bills on your agenda today, specifically **RB No. 1105, AAC Special Education,** and **RB No. 6501, AAC Delays in the Evaluation and Determination Process for Students Suspected of Requiring Special Education Services**.

For those of you who are not familiar with our Office, we are a small, independent safeguarding agency that operates pursuant to both State and federal statutory mandates to investigate abuse; pursue legal and administrative remedies on behalf of people who are experiencing disability-based discrimination; and inform, advise and help empower people with disabilities about how to exercise of their rights. Every year we receive hundreds of requests for assistance from parents of children with disabilities that affect their educations. My comments on these bills reflect our experience advising and representing those families.

With the reservations noted below concerning Section 2, our Office generally supports the amendments to special education statutes proposed in **R.B. No. 1105.** This measure attempts to clarify current statutory provisions regarding the qualifications of personnel assigned to provide and supervise certain behavioral support services to students whose teams recommend those services, and also clarifies that "nexus" school districts that are responsible for funding education services for children who are placed out-of-home can qualify for excess cost grants. We are especially pleased to note and urge support for the provisions in Section 5, which establishes a Lead Poisoning Prevention and Treatment Stakeholder Committee that would explicitly include and direct the State Department of Education to work with other entities and programs in efforts to address the effects of childhood lead poisoning.

Despite progress in the war on early childhood lead poisoning, it remains a significant cause of cognitive and behavioral problems. While the damage lead causes to developing nervous systems is often permanent, there are a number of educational strategies that can help children to compensate and acquire adaptive skills – but only if the problems are identified and remedial efforts begun in timely fashion. Many people think the problem of early childhood lead poisoning has been solved – that removing lead from motor fuels, along with newer screening requirements, lead abatement codes and various remediation and health education programs have solved the problem. I used to think that too. But the fact is that hundreds of kids are identified as having Elevated Blood Lead Levels every year in Connecticut. Much of our housing stock is

old, and, over the past few years incontrovertible scientific evidence has emerged showing that what we used to consider as insignificant blood lead levels are, in fact, extremely detrimental to cognitive development and behavioral health. Some studies suggest that as many as 10% of young people who become involved in the juvenile justice system have been lead poisoned. So it is important that schools understand the effects of lead poisoning and be prepared to provide relevant educational programming to its victims. The Stakeholder Committee and guidelines called for in Section 5 will help achieve this.

As mentioned above, we have concerns regarding Section 2(a)(2) of this bill. Lines 98 through 110 remove existing language which directs a local or regional education authority to request a due process hearing in the event a PPT proposes to privately place a student and the parents refuse to give consent for the placement. The "statement of purpose" attached to the bill interprets this language as intending to "eliminate the requirement that parental consent be secured when a planning and placement team recommends a private school placement for a child eligible for special education". While it is not entirely clear that removing a statutory requirement that districts seek due process hearings when parents refuse to consent to a private placement means that those districts could then simply proceed with those placements, the current language acts as a safeguard against precipitous, unilateral decisions by school districts to place children into segregated, out-of-district placements. I urge you to leave that safeguard in place.

R.B. 6501 clarifies the responsibility of school districts to promptly pursue consent for relevant evaluations whenever it is suspected that a child requires special education and related services. The need for clarification on this point arises out of federal requirements that an individual child's Response to Intervention (RTI) be considered in determining the need for special education. The theory behind RTI is that children who are struggling may sufficiently benefit from more intensive educational intervention strategies so as to make a referral for special education services unnecessary. Sometimes they do so benefit, although I suspect that fact speaks more to the paucity of educational approaches to which they have been previously exposed than to the RTI requirement. There are a number of learning problems, however, that cannot be overcome without very specific supportive interventions – interventions that fall well outside the typical range of RTI strategies. For instance, a child who has phonological processing problems due to a neurologically-based inability to discriminate between certain syllable sounds may need access to auditory discrimination programming. Putting that child through six or nine months of RTI only puts him or her further behind, contributing to his or her frustration with school and a sense of failure that further harms self esteem. This bill clarifies that RTI cannot be used as an excuse for delaying evaluation and identification processes when there is reason to believe a student needs more. I urge you to support it.

Thank you for your attention. If there are any questions, I will try to answer them.

18-13

6501

March 3, 2011

Dear Education Committee,

My son, Michael, is 11 years old and in 6th grade. He is a child any parent would feel blessed to call their own. He is easy-going, sociable, and witty and loves history and science. He is compassionate, conscientious and strives to be the best son and brother he can be. He sets a very high standard for himself and worries that his best is not good enough.

Teacher comments on Michael's report cards, and to me in person, praise his good behavior, enthusiasm and dedication and that he is a hard-working, caring student. His teachers also recognized and documented his difficulty with spelling, reading and writing since 1st grade. I began to express concerns about Michael's academic progress when he was in 2nd grade. His teachers' responses were that he had to practice more and to not rush through his assignments. This is a lot to ask of a child who, even though he is rushing to complete an assignment, still needs extra time to do the work that the other students have already completed. Michael's school days were a constant struggle to try to keep up with the rest of his class.

HB6501

After expressing concerns about Michael's progress for 3 years, I formally referred him for Special Education eligibility on June 17, 2008. I asked how they would know if Michael might have learning disabilities and they told me that "he would show progressive deviation below grade level, but he may have a processing deficit". At my request, Michael was allowed to attend summer school, at which time a screening was done. The District held a PPT meeting on September 24, 2008 at which eligibility was denied. Michael then began to receive Tier II SRBI services. He continued to experience great anxiety and frustration with his inability to keep up with his peers. The school continued to give him Tiered services for over a year, but did not recommend Special Education services.

By November of 2009, I was extremely concerned with Michael's struggle with schoolwork and he was beginning to not like school because it was "too hard". I was very frustrated in my belief that the District was not acknowledging the severity of Michael's difficulties, nor were they meeting his educational needs. I was frantic to see him so exhausted, both physically and emotionally, in his struggle to try to keep up and meet the expectations of both his educators and himself, that he was starting to give up and that the only thing that was keeping him going was his drive to live up to what he thought was expected of him and to keep up with his classmates. I hired an Advocate to help me through the process of having Michael again, referred for Special Education services. Independent Educational Evaluations showed that Michael has several disabilities and was falling further and further behind. For example, as a 9 year old, 5th grader, Michael had the vocabulary of a 17 year old and the spelling skills of a 2nd grader. His IQ is in the Superior range.

Finally, on February 5, 2010, after over 1 ½ years of not responding to SRBI, Michael was found eligible for the Special Education services that he clearly needed, that I formally requested twice, and that Michael had been denied since September 2008.

Michael now has an IEP and is making progress. He still holds himself to a high standard and works diligently. But still, I wonder, where would he be now if he had been identified for Special Education services the first time I requested it? Or even earlier, when all his teachers recognized that he was struggling.

I was of the belief that the District was trained to recognize kids with learning problems.

I trusted them to provide my son with the resources he needed for a successful education. After all, that is what they are there for. And that is what the teachers and administrators tell the parents in their beginning-of-the-year speeches and letters.

I shouldn't have had to hire an Advocate for my son, to quote laws, timelines and procedures to the School District. But I'm so glad I did. I hope other families don't have to go through an experience like this. But they are and they will, unless children like Michael are assured early recognition and identification for Special Education services and not left in SRBI.

I ask you, please amend H.B. 6501 to specify that the SRBI process not delay a comprehensive evaluation or Special Education eligibility determination.

Thank you,

Kathleen Tsou

Kathleen Tsou
Westbrook, CT

STATE OF CONNECTICUT

COUNCIL ON DEVELOPMENTAL DISABILITIES

March 7, 2011

To Education Committee
Re Raised Bill HB 6501

Good morning Senator Stillman, Representative Fleischmann and members of the Education Committee.

My name is Margaret Cohan, and I am a Disability Policy Special for the CT Council on Developmental Disabilities. The Council is a Governor appointed body of persons with disabilities, parents of children with developmental disabilities and agency representatives that serve people with developmental disabilities. We receive federal funding from the Administration on Developmental Disabilities to implement the Developmental Disabilities Act and to that end, we promote the full inclusion of people with disabilities.

The Council supports Raised Bill No. 6501 "AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES". The Council knows it has been well researched that early intervention is vitally important to not only children with learning disabilities who need special education to achieve success but any child who needs special education. Any delays in the special education process can lead to unnecessary frustration and delays in receiving services that are necessary for success. The Council along with advocates and parents feel the use of the SRBI process by local school districts has caused delays in children having a timely comprehensive special education assessment. This also has been noted on a national level so much so that the Federal Office of Special Education and Rehabilitative Services in January 2011 warned in a letter that SRBI must not be used to delay or deny a timely evaluation for children who may have a learning disability. The Council has been so concerned we are co-sponsoring with the CT Parent Advocacy Center nationally known special education attorney Peter Wright in April to come to CT for a one-day conference on special education law with an emphasis on CT regulations for parents and professionals.

The Council would like to suggest that this bill be amended to include a requirement that school systems be required to keep data on when children with learning disabilities are referred to special education and when SRBI was first implemented to measure the time from identification of a potential problem for a child with learning to special education assessment and intervention.

Thank you for allowing me to testify. I would be happy to answer any questions.

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Dear Education Committee,

As a parent of a child being stalled in the system, I have a serious problem with the elimination of SRBI related language in HB 6501. I have read the proposed bill and wonder why SRBI was removed from it I believe it is detrimental that SRBI be included in this bill I read that "each local and regional board of education shall promptly request parental consent to evaluate a child pursuant to this section and in accordance with applicable federal law and regulations "if" such board suspects that a child requires special education and related services". What if the person(s) dealing with the child is not versed on what the child's problems are? Then the child gets overlooked. There are so many disabilities and it is not possible for someone to recognize them all. This is so unfair to the child! As in my child's case, my child needed to be tested but the school didn't think so. They were already helping her in SRBI and the school didn't see any other problems and that in itself is where the problem was. They were not educated on what was wrong with my child. They used the SRBI as an excuse to not have to deal with any other issues that were present with her. She became so frustrated with her troubles with schoolwork and focus troubles that she started acting out so badly I had to send her to a psychologist. The school dismissed my concerns. Finally, I as a parent had to go outside the school board and prove that she had a problem before they would even consider looking at her or talking to me. This alone wasted an entire year of meeting regularly with my child's teacher, speaking to many other parents and researching where I can get the help and testing my child needed. In my opinion, all people involved in helping her in SRBI did not know what to look for. Furthermore, the school diagnosticians that did more testing did not know there was a reason why testing answers did not match up so they just dismissed the testing with excuses that the test scores were inconsistent but that there was no problem because she did good in "other" areas. I feel like SRBI was put into place so school boards don't have to do the testing. That is just wrong It is a use by the schools to not have to speak to parents to let them know there may be a problem. Why? Maybe they want to protect their pockets at our children's expense and this is the perfect excuse. I can only guess. I understand that budgets are tight right now but to turn away our children is inexcusable. They are our future! There should never ever be any reason like SRBI a child is ignored Every child who is put into any special program should be tested at any cost to see where their problems lay before they can be treated and this is not being done. SRBI is an excuse our children don't need. All children deserve a chance to learn and if we only treat the symptom without treating the problem then they are not serving the child or bettering the situation. In fact they could be seriously damaging the situation and the child. My child is still in the system. She has not been fully diagnosed but an assumed diagnosis that needs to be confirmed has been suggested. IF, what they are assuming is correct then she is the one who has been hurt. The damage has been done. Early intervention has been lost. SRBI can not be an excuse.

Melinda Rossi

A Case of Delayed Comprehensive Evaluation and Denied Eligibility Due to SRBI

Madison is a fourth grade student with above average intelligence. She has struggled with reading her entire academic career. She scored at the below basic level on the third grade Connecticut Mastery Test.

She has been receiving Tier II reading services since third grade, September 2009.

The district never referred her for special education eligibility

Madison's parents, concerned about both her struggles with reading and resulting emotional distress, referred her for consideration of eligibility under IDEA in the fall of her fourth grade, 2010.

The PPT finally convened after more than a year of Madison receiving tier II services and agreed to go forward with a comprehensive evaluation acknowledging a lack of response to intervention.

When the PPT met to review the evaluation and discuss eligibility, the district determined that Madison did not qualify under the classification of specific learning disability because she was responding to tiered services, even though after more than a year of tier II services she still was not meeting grade level expectations in reading. Although special education eligibility was denied, the district planned on continuing the same tiered services.

The district did not qualify Madison under the classification of other health impaired – ADHD because it felt she did not require direct services, despite the fact that she was currently receiving tier II one to one reading instruction 30 minutes, 4 times a week.

The Connecticut State Department of Special Education was contacted and informed that a district was leaving a child in tier II interventions for well over a year and denying eligibility despite the continued need for tiered services. Its response was that it was a general education issue and no assistance could be provided.

Testimony of Attorney Andrew A. Feinstein
On RB 6501
March 3, 2011

My name is Andrew Feinstein and I am an attorney in Mystic who represents children with disabilities and their parents in seeking free appropriate public educations. I attend Planning and Placement Team meetings with parents, I negotiate in mediation sessions, and I bring due process hearings. As such, I am well aware of how the special education process works in practice, as well as in statute.

Simply put, a child who has a disability that interfere with his/her ability to access the educational curriculum effectively is entitled to special education and related services. The federal law identifies thirteen different disabilities, but the most common one is a specific learning disability. The statute defines a specific learning disability as "a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations." 20 USC 1401 (30). The statute contains two other special rules on eligibility. In 20 USC 1414(b)(5), the law states "a child shall not be determined to be a child with a disability if the determinant factor for such determination is lack of appropriate instruction in reading ... math ... [or] limited English proficiency." Then, as to specific learning disabilities, 20 USC 1414(b)(6)(B) states "In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures."

The Connecticut State Department of Education (CSDE) has embarked on its own Response to Intervention program, as initially mandated in the No Child Left Behind legislation, known as the Scientific Research-Based Initiative (SRBI). CSDE has taken narrow, permissive language, related to early elementary school students and to reading alone and has expanded it in SRBI to cover reading, writing, math, and social and emotional behavior. The SRBI program is complicated, time-consuming and expensive. It requires classroom teachers to maintain, analyze and present a substantial amount of data on each child. Based on that data, children are funneled into increasingly intense levels of instruction when they fail to make adequate grade level progress in the regular classroom. Interventions are supposed to be research-based, but the scientific basis is rarely evident in practice. In concept, the SRBI program has a great deal to recommend it.

CSDE issued Guidelines for determining eligibility for special education based on a specific learning disability last spring. The Guidelines rely on SRBI as the first screen to determine which students need intensive interventions and to mandate that districts provide those interventions. Essentially, the Guidelines state that a student cannot qualify for special education designation, and the legal protections, added interventions, and accountability that come with a special education designation, until and unless the student fails to make progress throughout the entire SRBI program. In three fundamental ways, this reliance is misplaced.

First, it will take the average student a year or two to go through all the tiers of support under the SRBI program. Only then will the student be designated as eligible for special education. The educational research is clear that, for students with learning disabilities, early intense intervention is the best and, at times, the only way for the student to learn to read competently By delaying special education designation for a year or two, we may well be sacrificing the student's long-term literacy.

Second, the special education program requires a high level of parental participation. The SRBI program has no requirement for parental participation. The way SRBI has been implemented in most districts to date affords no role for parents. This is unfortunate. Parents often know their children best and can add a great deal to the educational planning for their child. Moreover, any effective learning program at the lower grades requires a significant home component. By cutting parents out of the SRBI program, districts are insuring that the program is far less successful than it could be.

Third, the Guidelines state that, if the child fails to make grade-level progress because the district had an inadequate SRBI program, the child cannot qualify for special education designation. So, the draft Guidelines sentence children with learning disabilities in the weakest schools to double punishment: no effective SRBI and no special education services. This is a violation of child find, directly contrary to the intent of both Connecticut and federal special education law, and inconsistent with the language of the IDEA. More fundamentally, this policy is immoral.

There is nothing whatsoever in the IDEA to support this exclusion. The federal statute does not sanction the policy of refusing to designate a student as eligible based on a failed Response to Intervention program. Section 20 U.S.C. §1414(b)(6)(B) provides that SRBI may be used as one factor in determining eligibility, not as a way to delay eligibility. The ability to use response to SRBI as one factor in determining eligibility is radically different from saying that a child who has been victimized once by poor implementation of SRBI by a school district cannot be said to be learning disabled.

Note that, however sound the SRBI program is in theory, SRBI has been weakly executed in a significant number of Connecticut schools. SRBI is an intensively data-driven program requiring weekly and, at times, daily data collection, data maintenance, analysis, and presentation. A teacher with twenty or twenty-five children in the classroom does not have the time to implement the SRBI program with fidelity. Yet, many districts do not routinely provide aides. Where there are aides, they are often poorly trained. More to the point, the State is not providing any additional funding to districts to implement SRBI. SRBI also imposes a large change in the way education is provided and necessitates a change in the culture of schools. Cultural changes take time and tremendous encouragement. And, the State is doing very little training of administrators, teachers, and aides to administer the SRBI program. The program is complicated. Determining what data to collect and how to analyze it is difficult. Establishing a serious SRBI program in all the school districts in Connecticut is a time-consuming and very expensive proposition. As the United States Department of Education advised, in its letter of July 27, 2007, it is unwise to require the use of an RTI process for purposes of special education

designation until the program has been successfully scaled up, in an incremental manner, over time.

When I wrote Commissioner McQuillen on April 13, 2010 concerning this, he responded saying that I had misread the Guidelines. He wrote, "If there is any question or suspicion that a child may have a learning disability, a comprehensive evaluation must be performed even if the child did not receive appropriate instruction or the district did not provide appropriate interventions through their SRBI process. In addition, as specified in IDEA 2004, families and school personnel always have the right to refer a student for consideration of eligibility for special education services by requesting an evaluation at any time, including prior or during the SRBI process. The PPT must respond to all referrals by holding a PPT meeting to determine whether a comprehensive evaluation is warranted." These reassuring words are contradicted by the language of the Guidelines, which require that the PPT should, prior to any evaluation, ask, "Are there additional general education strategies and interventions that should be in place and tried before a comprehensive evaluation is considered?" Guidelines, page 24. The effect of this language on school districts has been to give them license to say no to evaluations because the child has not been through the entire SRBI process.

CSDE's publications are ambivalent on the issue of using SRBI for delay. CSDE acknowledges that SRBI should not delay a referral to special education, yet apparently contradicts itself on page 30 of the *2010 Guidelines for Identifying a Child with a Specific Learning Disability* by listing as an eligibility criteria, "The child does not make sufficient progress to meet age or state approved grade level standards ... when using a process based on the child's response to scientific research-based intervention." CSDE is trying to have it both ways. In doing so, CSDE licenses local school boards to pick which approach they want to use. To save money, local school districts opt to delay special education evaluation and special education designation until the end of the SRBI process, that is, the option that damages the child with a disability.

The Connecticut Special Education State Advisory Committee's (SAC) 2010 Annual Report reported, "We also heard from Council members that some districts in the state are denying services to special education students in the name of SRBI. One cited example was a student who was exited from special education because all the tiers of interventions in SRBI had not been completed prior to the student being referred to special education." Indeed, the federal Office of Special Education Programs (OSEP) issued a memorandum on January 21 of this year acknowledging that RTI strategies were being used to delay or deny a comprehensive evaluation and warned that this practice was inconsistent with IDEA.

The bill under consideration, RB 6501 simply fails to address this central issue. While it reaffirms the need for a prompt evaluation, it does not preclude school districts from delaying eligibility determinations until after the completion of a lengthy SRBI process. Indeed, it authorizes parents to consent to delay, an authority which is nowhere found in federal law. And it adds language about the local school board suspecting a disability, seemingly eliminating the right of a parent to initiate a referral. The bill needs to be revised to state that a local school

board cannot use the SRBI process to delay an evaluation or a determination of eligibility of a student.

This legislation is needed even in light of the OSEP memorandum of January 21. A Connecticut law speaks far more loudly and dispositively than does an OSEP memorandum. Violations of a Connecticut law are a clear violation of FAPE, while violation of an OSEP memorandum is not. More importantly, the Connecticut State Department of Education has issued internally contradictory policy. As the oversight body, the Legislature is obliged to remedy this.

Thank you for your consideration of this issue.

March 3, 2011

Education Committee
State of Connecticut General Assembly

RE: HB 6501

Dear Education Committee Members:

I am writing to you on behalf of myself, my family and most importantly my son – a child who is in need of special education and related services. I am also writing to you on behalf of all of those other families in the State of Connecticut (and there are many of them) who are similarly situated.

In addition to being the President of the *Connecticut Association of Children and Adults with Learning Disabilities* (CACLD), I am the founder of the *'Association of Parents of Exceptional Children and Siblings'* (APECSct)[www.apecsct.org] – both organizations dedicated to providing our families with the support that they deserve in order to get their children the services they need and are entitled to under the law.

The State of Connecticut has adopted a program entitled SRBI – a program designed to provide students with increasingly more intense interventions as needed in the classroom in order to allow them to succeed academically. This effort is to be applauded.

However, it must be kept in mind at all times that this program is one to be run independently of the obligations imposed upon our schools for identifying those children that are eligible and in need of special education and related services.

There are a great number of us who are fearful that the SRBI guidelines are in danger of confusing these issues. It is our concern that the schools will interpret their obligations under the SRBI guidelines to supplant or supersede their 'child find' obligations under federal and State laws. It is our hope that we might be able, by way of clarifying legislation, to make it quite clear to all who become involved in this process that by employing the techniques called for in the SRBI process that the responsibility of identifying children that might be at risk and declaring them eligible to receive special education and related services should not be delayed or sidetracked.

These concerns are not unfounded. In fact the federal Office of Special Education Programs recently found it necessary to publish a Memo directed to all State Departments of Education reminding them the implementation of any RTI

programs (i.e. SRBI type programs) shall not interfere with these obligations as set out in the IDEA (and associated Federal Regs.).

In addition, in its Annual Report of 2010 the State Advisory Council on Special Education (SAC) [in its formal Recommendations] called for oversight to be employed I order to "clearly communicate how SRBI is to interface with special education, specifically relating to students requiring referral special education". The SAC report was also alarmed to report "that some districts in the state are denying services to special education students in the name of SRBI" (see SAC Annual Report, 2010 at p. 8-9).

Toward that end, I want to express my support for the passage of HB 6501 in spirit. However, it is my firm belief that the language of this Bill should be amended to specifically refer to the SRBI process as one that should not constitute and impediment to the 'child find' responsibilities of our school districts. Accordingly, I am requesting that the language of HB 6501 be so amended to reflect these concerns and considerations.

Very Truly Yours,

M. Jeffry Spahr
Norwalk, Ct.

18-15

Good Morning:

I am contacting you today to request that H.B. 6501 bill be amended to specify that the SRBI process not delay a comprehensive evaluation or eligibility determination.

My child with learning disabilities will be attending college in the fall. It has been a very long road and I consider us fortunate because laws were in place that allowed him to receive an appropriate education without *additional* delays. Even with appropriate laws in place, we struggled and fought to get him the supports he needed to be successful. The first step to success is early intervention. I cannot imagine the feelings of tumult parents will experience if they have to face additional red tape when just trying to get their child identified.

I will be attending the hearing on Monday and know that your support on this bill is vital. Please support H.B. 6501.

Sincerely,

Paula Marchese - Madison, CT

20-6

Testimony of Margie B. Gillis, President, Literacy How, Inc. and
Research Affiliate, Haskins Laboratories,
Regarding Proposed Bill 6501, *An Act Concerning Delays in the Evaluation and Determination Process For Students Suspected of Requiring Special Education Services*
March 7, 2011

Senator Stillman, Representative Fleischmann and Members of the Committee, I present this testimony in support of Raised Bill No. 6501, *An Act Concerning Delays in the Evaluation and Determination Process For Students Suspected of Requiring Special Education Services.* In supporting this bill, I would like to request that it specifically state that the SRBI process NOT delay a comprehensive evaluation or special education eligibility determination.

Over the past several years I served on two task forces where the members debated these very issues with strong opinions and deep-seated emotions. The first was the task force that developed the state's guidelines for Response to Intervention, otherwise referred to as SRBI – Scientific Research-based Interventions. The other was the task force that revised the LD Guidelines for the state. The two task forces had several members in common and, of course, solid representation from the State Department of Education. There is strong overlap between these two documents and ideally, they should support, strengthen, and substantiate each other. However, as those of us who have been around can testify, the devil is in the details and the details are unfortunately, subject to interpretation and great disparity in terms of how the recommendations are implemented.

As a former special education teacher, I want to speak on behalf of those students identified with learning disabilities who aren't in a position to advocate for themselves. These students, the majority of whom have reading disabilities, are oftentimes missed or mistaught. Our state is one of many that does not use the term dyslexia to refer to students with reading disabilities, and as a result, many of these students also suffer from what I refer to as 'dysteachia.' I'm not blaming the teachers who often 'don't know what they don't know.' In so many cases, their hands are tied. First, most have not received training in evidence-based reading instruction. And second, they are told by their administrators not to refer students whom they have concerns about for special education. One colleague who is a special education teacher in a large CT urban district recently emailed me saying: "SRBI is ***not*** being implemented with fidelity--or anything approaching fidelity-- by regular education personnel in many places. That's something that absolutely figures into the prevention of both under- and over-identification of learning disabilities; the lack of this implementation also throws the entire burden on the overwhelmed special education umbrella--particularly the resource teachers and the school psychologists in high-risk urban areas (with their army of well-meaning, hard-working, and absolutely under-trained-in-reading professionals)."

Response-to-Intervention, the very process that was meant to ensure that prevention and early intervention were the rule for our most vulnerable children, is now the mechanism that is preventing these children from receiving targeted interventions to meet their instructional needs. The State Department of Education (SDE) then has three extremely important jobs to do: First, they must ensure that our prospective special education teachers be required to take and pass the CT Foundations of Reading Test, a test that is required for PreK – 6th grade general education licensure. Second, SDE must hold districts accountable for delivering high-quality professional development in evidence-based reading instruction. Third, with strong policy and laws already in place, SDE must enforce these policies and hold districts and schools accountable for upholding the federal and state laws that mandate quality instruction for children identified with LD.

Respectfully submitted,

Margie B. Gillis

Margie Gillis, President, Literacy How; Research Affiliate, Haskins Laboratories

STATE OF CONNECTICUT

COUNCIL ON DEVELOPMENTAL DISABILITIES

March 7, 2011

To Education Committee
Re. Raised Bill HB 6501

Good morning Senator Stillman, Representative Fleischmann and members of the Education Committee.

My name is Margaret Cohan, and I am a Disability Policy Special for the CT Council on Developmental Disabilities. The Council is a Governor appointed body of persons with disabilities, parents of children with developmental disabilities and agency representatives that serve people with developmental disabilities. We receive federal funding from the Administration on Developmental Disabilities to implement the Developmental Disabilities Act and to that end, we promote the full inclusion of people with disabilities.

The Council supports Raised Bill No. 6501 "AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES". The Council knows it has been well researched that early intervention is vitally important to not only children with learning disabilities who need special education to achieve success but any child who needs special education. Any delays in the special education process can lead to unnecessary frustration and delays in receiving services that are necessary for success. The Council along with advocates and parents feel the use of the SRBI process by local school districts has caused delays in children having a timely comprehensive special education assessment. This also has been noted on a national level so much so that the Federal Office of Special Education and Rehabilitative Services in January 2011 warned in a letter that SRBI must not be used to delay or deny a timely evaluation for children who may have a learning disability. The Council has been so concerned we are co-sponsoring with the CT Parent Advocacy Center nationally known special education attorney Peter Wright in April to come to CT for a one-day conference on special education law with an emphasis on CT regulations for parents and professionals.

The Council would like to suggest that this bill be amended to include a requirement that school systems be required to keep data on when children with learning disabilities are referred to special education and when SRBI was first implemented to measure the time from identification of a potential problem for a child with learning to special education assessment and intervention.

Thank you for allowing me to testify. I would be happy to answer any questions.

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1105

Please leave the law that ensures that those providing Applied Behavior Analysis (ABA) in public schools or at public expense would have the training and a credential necessary to do so alone. There are already not enough SLP's, special education teachers and psychologists to meet CT's current educational needs so adding additional responsibilities to these professions will not meaningfully increase the number of providers; we want to avoid having students with autism not learning and instead regressing & then needing more costly treatment. ~ Doriana Vicedomini , 9 Kingfisher Lane, Suffield

Sent from my Verizon Wireless BlackBerry

Subject: Raised House Bill 6501 – Testimony

Dear Members of the Education Committee,

My name is Laurie Bloom. I have been a resident of Connecticut for over 30 years and I offer this testimony today in support of House Bill 6501 as both a parent of an adult child with a reading disability and as a member of the Legislative Advocacy Committee of CACLD (Connecticut Association for Children & Adults with Learning Disabilities). I wholeheartedly support the intention of 6501 to prevent delays in the evaluation of children to determine eligibility for special education services. However, the bill, as written, fails to address the role of Connecticut's Response to Intervention through the multi-tiered SRBI program set forth in the 2010 Guidelines for Identifying a Child with a Specific Learning Disability.

If schools are allowed to continue to hide behind SRBI as an excuse for delay in determining eligibility for and implementing appropriate special education services, they are acting in violation of IDEA to provide a free and appropriate education. Response to intervention becomes a catch-phrase for "response to failure" which was the standard operating procedure when my son entered elementary school almost 20 years ago. I believe it was Ben Franklin who famously said "Time lost cannot be found." This is never more true than for struggling young readers, where early and appropriate reading instruction lays the foundation for all other learning, and ultimately for their future success beyond primary and secondary education.

As a parent, I began my special education journey more than 20 years ago, when my son was still in pre-school. Notwithstanding that he had his first IEP when he was three years old, he continued to fall further and further behind his peers each year. By the end of third grade, my nine year old was barely reading on a first grade level, couldn't spell and still had trouble printing letters, although diagnostic testing indicated he had the vocabulary of a 20 year old. We placed my son in a private special education school and brought a due process action against the school district. After 12 days of hearings, over a period of 14 months, the hearing officer ordered the school district to pay for the placement and transportation. Because they had failed to provide appropriate special education services at a critical stage of learning, my son still faced huge obstacles in order to compensate for his dyslexia, catch up, and ultimately succeed. My son continued in private special education school placements **at the expense of my local school district for ten years** (including extended school year for at least six years), due in large part to the delays in receiving appropriate special education services at an early

age. At the age of 19, my son graduated from high school with two diplomas, one from his special education high school and one granted by Weston High School (although he was not a student there, he had satisfied the Weston graduation requirements at his private placement). Four years later, in May 2010, my son graduated from college, *cum laude*, with a bachelor of sciences degree, ranked number one in his department. This does not mean that he was no longer dyslexic, or that any of this came easily. On the contrary, my son always had to work harder than his peers or his siblings to find his success. Even after he exited the protection of the IDEA, he still required accommodations for his learning differences in order to succeed in college. My son has become a skilled self-advocate which was the key to his success in post-secondary education and will allow him to continue to achieve and exceed all expectations as a lifelong learner, even though he happens to be dyslexic.

While my son's story has a happy ending (it must be noted it did not come without years of frustration for him and his parents), it has also come at a great financial cost to our local school district and taxpayers. This scenario can be avoided in the future by ensuring that all students suspected (by their parents or teachers) of requiring special education services receive prompt evaluations and are then properly identified; other children will not have to endure the long term challenges that my son faced due to years of delay based on a response to failure model. It is important that this bill be amended to reflect Connecticut's Response to Intervention program and not allow RTI to be a cause or excuse to delay or deny evaluations and appropriate services to children with learning disabilities. I urge you to support Raised Bill 6501 with the aforementioned amendment included.

Sincerely yours,

Laurie Bloom, Esq.

Weston, Connecticut

CACLD member /Legislative Advocacy Committee

laurie.bloom@alumni.uconn.edu

SmartKIDS Learning Disabilities

HELPING PARENTS HELP THEIR KIDS SUCCEED

March 7, 2011

RE: Raised Bill No. 6501
AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES

Testimony of Diane Willcutts on behalf of SmartKids with Learning Disabilities

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Phone. (860) 992-5874 (cell)

This testimony is in support of Raised Bill No. 6501, with modification, described in No. 3, below.

Smart Kids with Learning Disabilities, Inc., is a nonprofit organization including parents and professionals, dedicated to providing support to families of children with learning disabilities and/or attention deficit disorders. I am testifying on their behalf and as a parent of two school-aged children with disabilities.

Thank you to the Education Committee for raising an important bill that has the potential to correct some common misperceptions about special education evaluation. The language also serves to better align Connecticut regulations with the federal IDEA[1] regulations.

Many Connecticut parents report that schools are delaying the evaluation of students suspected of having disabilities, and school staff seem to have genuine misperceptions about what the law requires

It is important that the state regulations provide clarification to enable Districts to comply with federal law and to ensure qualified students with disabilities are assessed, identified, and provided with a Free and Appropriate Public Education (FAPE) in a timely manner

1. *Many parents report that schools are delaying initial evaluations because of SRBI. What is SRBI?*

   SRBI stands for Scientific, Research-Based Intervention, which is a key component of IDEA

   SRBI refers to proven methods of instruction, as demonstrated in published, peer-reviewed research. Most people talk about SRBI in reference to reading because that's where most of the research has been done. But it's also supposed to apply to math, writing, behavior, and other types of instruction.

   When you hear about SRBI, you'll hear a lot about a "3-tier system " Tier 1: This refers to the research-based instruction every child receives in the regular classroom. Tier 2: Students who are struggling in Tier 1 are referred to Tier 2, where they receive more individualized instruction, typically in small groups, along with more frequent assessment. Tier 3: Students who are struggling in Tier 2 are referred to Tier 3, where they receive instruction that is still more individualized and intensive.

   The term SRBI is used interchangeably with RTI, signifying Response to Intervention.

[1] Individuals with Disabilities Education Act

2. *Does a child need to go through all three tiers of SRBI prior to being evaluated for special education?*

No. A child can receive a comprehensive evaluation for special education at any time, even while still in Tier 1. The U.S. Department of Education's Office of Special Education Programs (OSEP) commentary on the federal regulations[2] (bold added) makes this clear:

> We will also. . . **ensure that the parents of a child suspected of having an SLD[3] who has participated in a process that evaluates the child's response to scientific, research-based intervention are notified about. . . their right to request an evaluation at any time.**

3. *When does IDEA require a District to seek parental consent to do a comprehensive evaluation of a child to determine special education eligibility and educational needs?*

Per IDEA regulations[4] (bold added).

> **The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services,** and must adhere to the timeframes described in §§300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in §300 306(a)(1)— **(1) If, prior to a referral, a child has not made adequate progress** after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section, and **(2) Whenever a child is referred for an evaluation.** (Authority: 20 U. S. C.1221e-3; 1401(30); 1414(b)(6)).

Although the language in HB 6501 is similar to the federal regulations it is more limited than what is in IDEA. To avoid misunderstanding and to facilitate compliance with federal regulations, the federal language should be substituted for Lines 7-12 of the raised bill

The key difference between the IDEA regulations and HB 6501 is that HB 6501 implies that a Board is required to promptly request parental consent for evaluation only when "a board suspects that a child requires special education." In contrast, the IDEA regulations indicate that the duty to request parental consent is triggered "whenever a child is referred for an evaluation," which includes referrals made by parents.

4. *Can the SRBI process be used to "delay" an eligibility evaluation?*

No. OSEP issued a recent memo addressing this issue[5] (bold added):

> It is critical that this identification (of students with disabilities in need of special education and related services) occur in a timely manner and that no procedures or practices result in delaying or denying this identification. **It has come to the attention of the Office of Special Education Programs (OSEP) that, in some instances, local educational agencies (LEAs) may be using Response to Intervention (RTI) strategies to delay or deny a timely initial evaluation for children suspected of having a disability. States and LEAS have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.**

Parents may request a comprehensive evaluation at any time, and once the parents provide consent, the time frame for completing eligibility evaluations is 45 school days from the date of the parents' written consent. OSEP's commentary on the federal regulations[6] (bold added) makes this clear:

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[2] *Federal Register*, Vol. 71, No. 156, August 14, 2006, p 46658

[3] Specific Learning Disability

[4] 34 CFR §300 309 (c)

[5] OSEP's 1/21/2011 Memorandum to State Directors of Special Education, Page 1

[6] *Federal Register*, Vol 71, No 156, August 14, 2006, p 46658.

> We will also. . . **ensure that the parents of a child suspected of having an SLD who has participated in a process that evaluates the child's response to scientific, research-based intervention are notified about** the State's policies regarding collection of child performance data and the general education services that will be provided; strategies to increase their child's rate of learning, and **their right to request an evaluation at any time. If parents request an evaluation and provide consent, the timeframe for the evaluation begins and the information** required in Section 300.309(b) **must be collected (if it does not already exist) before the end of that period.**

5. *If a child suspected of having a disability is responding to SRBI, does this mean the student does not qualify for special education?*

   No. Per OSEP guidance[7] (bold added):

   > **An SEA must include a variety of assessment tools and may not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability, as required under 34 CFR §300.304(b).** However, an SEA could require that data from an RTI process be used in the identification of all children with SLD.

6. *Connecticut's Bureau of Special Education does require that SRBI data be used as part of a comprehensive evaluation to identify students with specific learning disabilities. Unless a child has participated in all three tiers of SRBI, how can we do this?*

   OSEP provided guidance about this in the commentary to IDEA regulations[8] (bold added):

   > There needs to be evidence "that the child was provided appropriate **instruction either before, or as a part of,** the referral process."

7. *If a child is suspected of having a disability that is not necessarily severe, is the District still required to assess the child for special education?*

   Yes. From IDEA regulations relating to child find[9] (bold added):

   > **All children with disabilities residing in the State,** including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, **regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated** . .

8. *If a child suspected of having a disability is receiving passing marks and is promoted from grade to grade, does this mean that school districts should not evaluate them for special education?*

   No, this would be a violation of child find. From the IDEA regulations[10].

   > Child find also must include—Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade. . .

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[7] OSEP (January 2007) *Questions and Answers On Response to Intervention (RTI) and Early Intervening Services (EIS)*, Page 7

[8] *Federal Register*, Vol 71, No. 156, August 14, 2006, p 46656.

[9] 34 CFR §300.309 (c)

[10] 34 CFR §300 309 (c)

9. *If we revise the state regulations in the way that is suggested in this testimony, what are the additional costs to state and local boards of education?*

   Nothing. IDEA already requires the processes described in the language above, and any state or district accepting IDEA funds must agree to comply. The proposed revisions to state regulations seek to clarify common misperceptions and to ensure school districts are in compliance with IDEA.

TESTIMONY by RENA SCHINE ON H.B. 6501

My name is Rena Schine. I am a School Psychologist and Education Advocate for CACLD.

I represented CACLD on the SRBI Advisory Panel of 2006-07 and am writing to testify that many of us on that panel did not agree with the idea that a student should go through a long process (20-40 weeks) of SRBI before being evaluated to determine if the child is a child with a disability. I and many others on the committee and in the community believe that informed intervention needs to be prompt and should be based on hard psychological data about the strengths and weaknesses of a given child's learning and processing style.

A 20-40 week intervention under SRBI may give information about how a child does on specific skills, but it does not address the generalized often hidden learning problems that might be the underlying cause of the child's struggling. It is important to identify the factors that get in the way of the child's ability to problem solve and learn in order for an appropriate program to be designed in a timely fashion to support the whole child.

The three tier paradigm was not intended to be another rigid arbitrary prescribed formula like the Discrepancy Model which involved a formula to identify significant discrepancy between the Composite IQ and Achievement test scores of a student. This approach to diagnosing learning disabilities was rightfully criticized for many reasons (e.g. it was based on misleading composite scores that masked the at-risk indicators, was seen as a wait and fail approach, implementation was inconsistent, and it failed to differentiate low achievement from specific learning disabilities. We must be wary of getting stuck once again fitting human behavior into a mathematical equation that will delay provision of an appropriate targeted service.

The introduction of RTI/SRBI into the *identification* for special education process has caused confusion for districts in understating when to provide interventions, for how long and when a referral for special education evaluation is warranted, often blurring the lines between the general education classroom interventions and special education services. Each has its place in providing the students an opportunity to receive instruction based on their needs but first the needs need to be identified and diagnosed in a comprehensive manner through a standardized evaluation not through a 20-40 week process of trial and error.

Melody Musgrove, Director Office of Special Education United States Department of Education sent out a directive on 1/21/1 clearly stating that RTI cannot be used to delay/deny an evaluation and warned that this practice was inconsistent with IDEA; the CT State Advisory Council on Special Education (SAC) is also concerned about that practice; and the CT State Department of Education acknowledges that SRBI should not delay any referral to special education and yet I often hear PPT members claim that an SRBI sequence is "required" in all cases before a child can be determined eligible for services. It seems that the "2010 Guidelines" contradicts itself and leaves room for misunderstanding. That is why I respectfully urge you to pass the Bill HB 6501 which is intended to prevent delays in the evaluation process of children suspected of having a learning disability and therefore in need of special education.

Respectfully yours,
Rena Schine, Ph.D.
School Psychologist/Advocate
CACLD

H – 1110

CONNECTICUT
GENERAL ASSEMBLY
HOUSE

PROCEEDINGS
2011

VOL.54
PART 19
6188 – 6541

Necessary for Passage 74

Those voting Yea 134

Those voting Nay 12

Those absent and not voting 5

DEPUTY SPEAKER RYAN:

The Bill passes.

Will the Clerk please call Calendar Number 239.

THE CLERK:

On Page 10, Calendar 239, Substitute for House Bill Number 6501 AN ACT CONCERNING DELAYS IN THE EVALUATION AND TERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES. Favorable Report of the Committee on Education.

DEPUTY SPEAKER RYAN:

Representative Fleischmann of the 18th, Chairman of the Education Committee.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

DEPUTY SPEAKER RYAN:

The question is on acceptance of the Joint Committee's Favorable Report and passage of the Bill. Representative Fleischmann, you have the floor.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. Mr. Speaker, the measure now before us would require school districts to evaluate children without delay, and according to state and federal education laws and regs to determine whether a child is eligible for special education.

It was brought to the Committee's attention, particularly by our distinguished Minority Leader Representative Cafero that there have been undue delays in the evaluative processes.

We heard testimony that there are many families that are put into limbo and extremely disappointed about the amount of time it takes for a school district to determine whether or not their child is indeed deserving of special interventions.

For that reason, the Committee unanimously supported the Bill, and I hope the Chamber will do the same.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative Fleischmann. Will you remark further on the Bill? Will you remark further on the Bill? Representative Gibbons of the 150th.

REP. GIBBONS (150th):

Excuse me, Mr. Speaker. I've got the wrong bill. For right now, I'm fine. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Giuliano.

REP. GIULIANO (23rd):

Mr. Speaker, good evening and thank you. I have the right Bill.

I rise in support of this Bill for a number of important reasons. I've practiced as a school psychologist for, shall I tell you, over 30 years, Mr. Speaker.

But, there are times when parents experience significant frustration and angst with school districts. Why is that?

The reason is evaluation is regarded as the intervention of last resort. School districts by law are supposed to give lots of support, instruction, and a variety of interventions to kids before we go to that intervention of last resort, that being evaluation.

However, there are school districts who, in an attempt to avoid the lengthy and labor consumptive process of evaluation, delay that process and delay those interventions for children to an extraordinary degree, and this Bill seeks to remedy that circumstance.

You know, in public hearing, we heard from a number of parents and also a number of school districts, who said to us that there are times when evaluation as extraordinary as it might be, is a necessity to happen to resolve particular questions regarding kids and their learning, how they can best learn.

And so I rise in support of this Bill. I think that it is well intended, and to allow districts to offer a more efficient, more speedy process for evaluation is the right thing to do. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Kokoruda of the 101st.

REP. KOKORUDA (101st):

Thank you, Mr. Speaker. I'd just like to reiterate what Representative Giuliano said. We heard testimony from parents that have waited 18 months, 2 years, to get their children diagnosed and to get them help.

So we had a lot of help from parents. We had help from advocates for special education children and I really urge my colleagues to support this fine Bill. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Srinivasan of the 31st.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker. Good evening.

DEPUTY SPEAKER RYAN:

Good evening.

REP. SRINIVASAN (31st):

Thank you. I, too, rise in support of this Bill. I think it's an important Bill for us to have.

But through you, Mr. Speaker, if I can ask a question to the proponent of the Bill.

DEPUTY SPEAKER RYAN:

Please proceed, sir. Representative Fleischmann.

REP. SRINIVASAN (31st):

Representative Fleischmann, as I said, I'm supportive of this Bill, but I'm looking at the fiscal note of the Bill and am glad to note that there is no liability at all.

And I just want to understand if these services are to be provide, which is needed, where, I mean, how are we going to pay for this and how is that accounted?

Thank you, Mr. Speaker. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker, if I may, I will share verbatim the fiscal note, which my good colleague just referenced.

The Bill, which reinforces federal regulations from the state's current requirements regarding when districts make a decision about whether to evaluate a child to determine if they are eligible for special education services is not anticipated to result in a fiscal impact.

That's because the Bill reinforces both laws and regulations that are already on the books. It involves services that are already required.

Our Office of Fiscal Analysis has given its opinion and I believe in this body it is our tradition to respect that opinion. Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Srinivasan.

REP. SRINIVASAN (31st):

Thank you, Mr. Speaker, and I want to thank the good Representative for his answers. I appreciate that. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, sir. Representative Sawyer of the 55th.

REP. SAWYER (55th):

Good evening, Mr. Speaker, a question through you, to the proponent of the Bill.

DEPUTY SPEAKER RYAN:

Please proceed, ma'am.

REP. SAWYER (55th):

Mr. Chairman, in the language in the second line it says that each local and regional board of education shall without delay follow the procedures outlined in the section.

Just for legislative intent, could you please describe without delay?

DEPUTY SPEAKER RYAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker. It's my understanding that it is incumbent upon a local education agency to immediately begin its efforts to ascertain a child's needs when the question of the child being eligible for an individualized education program is brought to its attention.

It was brought to the attention of the Committee that in fact, some districts out of concern about fully satisfying all federal, state laws and regulations take weeks and sometimes months to go ahead, and in some cases

even more than a school year, to go ahead and develop a plan for a child who has special needs.

That clearly is not responsive to what is required by federal and state law and federal and state regulation.

And so, without delay, to me implies a year of evaluation or attempted evaluation is not acceptable. Nine months is not acceptable.

When they learn that a child is special needs, they are to begin the process of evaluating what those needs are and how to address them as quickly as possible.

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. That is very helpful because oftentimes we will get this little gray area and there will be a discomfort amongst the school system and I think with his clarification we can always point back to that, that it means, start it now. Thank you, sir.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Kupchick.

REP. KUPCHICK (132nd):

Thank you, Mr. Speaker. I rise in full support of this Bill. Having served on my local board of education

for six years I had the opportunity to meet with a lot of special education parents intimately and in private, and there does seem to be a tendency to have the complications of waiting for parents to get information, to compile all the information, so that they can finally get some plan for their child.

And I don't think it's intentional. I just think that the bureaucracy is sort of put in place and it ends up that way.

So I do fully support this Bill and I hope that it passes. Thank you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Carter of the 2nd.

REP. CARTER (2nd):

Thank you, Mr. Speaker. I also rise in support of this Bill. As a Member of the Special Education Advisory Council, we're looking for ways to make special education better in the State of Connecticut.

In addition, sir, I've had the opportunity to work with the esteemed Chair of the Education Committee and I have an Amendment. The Amendment is LCO Number 8013. Would you please ask the Clerk to call it and I be allowed to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 8013, which will be designated House Amendment Schedule "A".

THE CLERK:

LCO 8013, House "A", offered by Representative Carter.

DEPUTY SPEAKER RYAN:

The Representative seeks leave, will the Chamber stand at ease while we get the Amendment distributed on the other side.

(Chamber at ease.)

The House will come back to order.

The Representative seeks leave of the Chamber to summarize the Amendment. Is there objection to summarization? Is there objection? Hearing none, Representative Carter, you may proceed with summarization.

REP. CARTER (2nd):

Thank you, Mr. Speaker. Currently, this Amendment, LCO 8013, there is currently a Special Advisory Council to advise the General Assembly, State Board of Education, the Commissioner of Education, with respect to activities with a special education focus.

The members of that board have asked that we add three additional members to the board, one representative from the Office of Protection and Advocacy for persons with

disabilities, a representative from the Parent Leadership Training Institute, and finally, a representative from the Bureau of Rehabilitation Services within the Department of Social Services.

Mr. Speaker, I move adoption.

DEPUTY SPEAKER RYAN:

The question before the Chamber is adoption of House Amendment Schedule "A". Will you remark on the Amendment? Representative Carter.

REP. CARTER (2nd):

Thank you, Mr. Speaker. This Amendment, as I mentioned, came through the Special Advisory Council for Special Education. I believe it will be a friendly Amendment, although of course, we moved very quickly to get this out. I would urge all my colleagues to vote for it.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark further on the Amendment? Will you remark further?

REP. FLEISCHMANN (18th):

Mr. Speaker.

DEPUTY SPEAKER RYAN:

Oh, I'm sorry. Representative Fleischmann would you like to remark further on the Amendment?

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. Mr. Speaker, this does indeed appear to me to be a friendly Amendment. But if I may, through you, a quick question to the proponent of the Amendment.

DEPUTY SPEAKER RYAN:

Please proceed, sir.

REP. FLEISCHMANN (18th):

So in lines 25 through 29 of the Bill, this Amendment specifies three new members to this Advisory Council and it calls them representatives. And through you, Mr. Speaker, I'd just like to ascertain who will decide who the representative is from each of these entities?

Through you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Representative Carter.

REP. CARTER (2nd):

Thank you, Mr. Speaker. In answer to that question, it will be the chairman of, each of the departments will nominate somebody from their department.

And I'll also add there's no fiscal impact to his Amendment.

DEPUTY SPEAKER RYAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. That seems to me like an entirely reasonable method for selecting these additional representatives, and I hope the Chamber will join me in supporting Representative Carter and this reasonable Amendment.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark further? Will you remark further on the Amendment?

If not, I will try your minds. All those in favor please signify by saying Aye.

REPRESENTATIVES:

Aye.

\DEPUTY SPEAKER RYAN:

Opposed, Nay. The Ayes have it. The Amendment passes. Will you remark further on the Bill as amended? Representative, the distinguished Minority Leader, Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. First of all, I'd like to thank Chairman Fleischmann and Ranking Member Giuliano for, and the entire Education Committee for having the public hearing, hearing this Bill, and raising this Bill.

As has already been said, this Bill is for parents, parents who find themselves in a very vulnerable position, a scary position in many cases.

You know, like all parents, they want what's best for their kid. They want it quick. And especially when it comes to special ed issues, many parents are not equipped to understand what's going on with their child. They are dependent on a school system and they're dependant or hopeful that the issues will be resolved as quickly as possible so their child could get the appropriate education.

This Bill will allow them to have some piece of mind that that process will be moved along, and I thank all those who had a part in raising this Bill, and I would appreciate the Membership voting for it.

Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, sir. Will you remark further on the Amendment before us? Excuse me, will you remark further on the Bill as amended? Will you remark further on the Bill as amended? Representative Thompson of the 13th.

REP. THOMPSON (13th):

Thank you, Mr. Speaker, very briefly and speaking in support.

This Chamber was kind enough to place me on the Birth to Three Commission several years ago. I believe that one of the first meetings of that Commission that I attended, I asked for an explanation of what was going on, what kind of results they had and so on.

The director of the Birth to Three Program came back and mentioned that they had done a study and over a five or six-year period they had determined that about half the children who are picked up in the Birth to Three immediately, by the time they reached school age, fifty percent of those children who were identified as in need of special education services, did not require those services if they had been in the program.

More recently, the director of that program, Linda Goodman, reported that the percentage had risen from 50 percent to 65 percent. This does not mean, by any means, these are kids who get into the program immediately.

What I'm suggesting is, with those kind of results that kids go unidentified over a period of time, shame on us. Absolutely shame on us.

And if this program will help what is, or this Bill will help those people who are working with these children and make more of them available. You're talking about the kids who aren't identified.

I'm talking about kids who are identified as early as birth, that those kids wind up, 65 percent of them do not require special education, and in the original report that I was given, the savings to the state for that first group was $24 million because the savings were all in special education funding.

So it probably has been a well-kept secret but it shouldn't be any more because they are producing and whatever we can do to help them, we should do it.

So, thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Lavielle of the 143rd.

REP. LAVIELLE (143rd):

Thank you very much, Mr. Speaker. Very briefly, I rise as well in support of this Bill and want to join my, want to associated my remarks with those of my colleagues who spoke previously.

In my district, special education is quite a concern and there are a number of mandates and regulations that make the process quite long, sometimes. And from what we know about early brain development, it is important to identify any problems as early as possible and for that reason, I think it's extremely important to, when we can,

proceed to an assessment as quickly and with as few delays as possible.

So I strongly support this Bill and urge everyone in the Chamber to do the same. Thank you, Mr. Speaker.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark further on the Bill as amended? Will you remark further on the Bill as amended?

If not, will staff and guests please come to the Well of the House. Will the Members please take their seats and the machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber.

The House is taking a Roll Call Vote. Members to the Chamber, please.

(Speaker Donovan in the Chair.)

SPEAKER DONOVAN:

Have all the Members voted? Have all the Members voted? Please check the roll call board to make sure your vote's properly cast.

If all Members have voted, the machine will be locked and the Clerk will please take a tally. Will the Clerk please announce the tally.

THE CLERK:

House Bill 6501 as amended by House "A".

Total Number Voting	147
Necessary for Passage	74
Those voting Yea	147
Those voting Nay	0
Those absent and not voting	4

SPEAKER DONOVAN:

The Bill as amended is passed.

Just like to take this opportunity to welcome to our Chamber, lucky dad has his daughter for her birthday. Just like to join us, come up here and have some cake.

So I'd like to introduce to the Chamber my daughter on her 19th birthday, Sarah Donovan.

We've got a full House here. It's nice. Thank you everybody. Thank you so much.

(Deputy Speaker Ryan in the Chair.)

DEPUTY SPEAKER RYAN:

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SENATE

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Continuing Calendar page 16, Calendar 609, House Bill 6501; Madam President, move to place this item also on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving now to Calendar page 17, where we have two items. The first is Calendar 610, House Bill 6224; Madam President, move to place the item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

And also Calendar page 17, Calendar 613, House Bill 6453; move to place the item on the Consent Calendar.

THE CHAIR:

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

Moving now to Calendar page 18, where we have three items at this time; the first is Calendar 614,

Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber. Immediate roll call has been ordered in the Senate on the Consent Calendar. Will all Senators please return to the Chamber.

Madam President, the items placed on the first Consent Calendar begin on Calendar page 10, Calendar Number 478, House Bill 6488; Calendar 480, House Bill 5256.

Calendar page 11, Calendar 513, substitute for House Bill 6557.

Calendar page 12, Calendar Number 535, substitute for House Bill 6226; Calendar 555, House Bill 6259.

Calendar page 13, Calendar 560, substitute for House Bill 5368; Calendar 567, substitute for House Bill 6157.

Calendar page 14, Calendar 574, substitute for House Bill 6410; Calendar 578, House Bill 6156.

Calendar page 15, Calendar 591, House Bill 6263; Calendar 594, substitute for House Bill 5508; Calendar 595, substitute for House Bill 62 -- 5263.

Calendar page 16, Calendar Number 606, substitute for House Bill 6581; Calendar 609, substitute for House Bill 6501.

Calendar page 17, Calendar 610, substitute for House Bill 6224; Calendar 613, substitute for House Bill 6453.

Calendar page 18, Calendar 614, substitute for House Bill 5068; Calendar 628, substitute for House Bill 5008; Calendars 633, House Bill 6489.

Calendar page 19, Calendar 635, substitute for House Bill 6351; Calendar 640, House Bills, 6559.

Calendar page 20, Calendar 642; House Bill 6595.

Calendar page 21, Calendar 645, substitute for House Bill 6267; Calendar 648, substitute for House Bill 5326; Calendar 650, substitute for House Bill 6344.

Calendar page 22, Calendar 651, substitute for House Bill 6540.

Calendar page 23, Calendar Number 655, substitute for House Bill 6497; Calendar 657, substitute for House Bill 6262; Calendar 658, House Bill 6364; Calendar 659, House Bill 5489.

Calendar page 24, Calendar 660, substitute for House Bill 6449.

Calendar page 36 -- correction -- Calendar page 33, Calendar Number 390, substitute for Senate Bill 1181.

Calendar page 36, Calendar Number 481, House Bill 5472.

Calendar page 37, Calendar Number 584, substitute for House Joint Resolution Number 34; Calendar 585, substitute for House Joint Resolution Number 54; Calendar 586, House Joint Resolution Number 65, Calendar 587, House Joint Resolution Number 66.

Calendar page 38, Calendar 588, House Joint Resolution Number 80; Calendar 589, House Joint Resolution Number 63; Calendar 590, House Joint Resolution Number 35; Calendar 620, substitute for House Joint Resolution Number 45.

Calendar page 39, Calendar Number 621, substitute for House Joint Resolution Number 47; Calendar 622, House Joint Resolution Number 68; Calendar 623, substitute for House Joint Resolution Number 69; Calendar 624, substitute for House Joint Resolution Number 73.

Calendar page 40, Calendar 625, substitute for House Joint Resolution Number 81; Calendar 626, House Joint Resolution Number 84.

Madam President, I believe that completes the items placed on Consent Calendar Number 1.

THE CHAIR:

Thank you.

SENATOR LOONEY:

Thank you, Madam President.

THE CHAIR:

Mr. Clerk, please call for a roll call vote, and the machine will be open.

THE CLERK:

The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber. The Senate is now voting by roll call on the Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Senator Gomes?

If all members have voted; all members have voted? The machine shall be locked.

And, Mr. Clerk, will you please call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number 1.

Total number voting	36
Those voting Yea	36
Those voting Nay	0

Those absent and not voting 0

THE CHAIR:

Consent Calendar passes.

The Senate will stand at ease for a moment.

(Chamber at ease.)

SENATOR LOONEY:

Madam President?

THE CHAIR:

Yes, Senator.

The Senate will come to order.

SENATOR LOONEY:

Yes. Madam President, the Clerk is in possession of Senate Agenda Number 5 for today's session.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Madam President, the Clerk is in possession of Senate Agenda Number 5, dated Wednesday, June 8, 2011.

Copies have been made available.

THE CHAIR:

Senator Looney.