

Testimony of Special Education Equity for Kids in Connecticut (SEEK)
To Committee on Education
February 19, 2025

Senator McCrory, Chairwoman Leeper, Senator Berthel, and Representative Zupkus,

We are pleased to be able to present testimony to you today. This document is our comprehensive statement, which would take far longer than the allotted three minutes to read. Rather, each of the four members of the SEEK Legislative Committee – Andrew Feinstein, John Flanders, Naomi Nova, and Stacey Tie – will focus on an area of especial interest. We look forward to working with the Committee to develop legislative proposals that will protect and enhance the rights and the quality of education for students with disabilities in Connecticut.

SEEK is a statewide organization of parents, providers, advocates and attorneys focused on protecting and expanding the rights of and the quality of education for students with disabilities in Connecticut. We advocate before the Legislature and the Executive Branch, we produce webinars, we hold a large annual conference, and we provide a clearinghouse for parents.

The Committee has listed ten bills for hearing today. We have comments on many of them, which we will identify first.

We see nothing in S.B. No 1286 and H.B. No. 6911 which causes us concern.

Sections 2, 3, and 17 of S.B. 1288, implementing the recommendations of the Department of Education, seek to codify the determination of the State Board of Education that reasonable costs is the same as actual costs when applied to determining the sum that a school district must pay to a magnet school, a charter school or another district school for special education services provided by the receiving school under the student's IEP. SEEK believes the State Board got this right and the Legislature should ratify this decision to end any ambiguity.

We fail to understand the reasoning behind section 8 of S.B. No. 1288, which exempts from the Freedom of Information Act (FOIA) “the results for any survey on reading instruction” developed by CSDE over the past 10 years. With so much attention now being paid to reforming our failed reading programs and with the National Assessment of Educational Progress showing that two-thirds of Connecticut 4th graders are not proficient in reading, it strikes us as not only inappropriate to prevent the public from seeing the results of such surveys but imperative these surveys see the light of day. We can see no justifiable basis in existing FOI law to exempt this vital information from public view.

Sections 12 and 13 of S.B. No. 1288 elevate the existing informational handout to a bill of rights for students with disabilities. This change in nomenclature serves to elevate the importance of this document. We support the change.

Section 16 of S.B. No. 1288 requires private providers of special education services to set their prices by December 31 of the year prior to the September start date of such services. The

earlier rates are set, the more incentive there is to set them high to account for risk. Hence, while this provision would provide greater budgetary certainty for school boards and municipalities, it would do so by encouraging price inflation. This is a policy judgment for the Legislature. SEEK, however, does not believe the inflationary nature of this proposal is justified by the benefit to municipalities.

Moreover, the term “private provider”, as defined in C.G.S. 10-91g includes more than just Approved Private Special Education Placements (APSEPs). It includes all the occupational therapists, physical therapists, BCBAs, private evaluators and contract paraeducators hired by districts. Most of those hires do not occur until there is a clear shortage, or well after the December 31 deadline. So, while the definition is wildly overinclusive, it is also underinclusive. It does not cover the Regional Education Service Centers (RESC) which are very significant providers of services to students with disabilities. We just saw EASTCONN raise all its rates by 15% in January, effective immediately. Certainly, if APSEPs need to provide early notice of its rates, the same should apply to the RESCs. In short, Section 16 of S.B. No. 1288 is poorly conceived and poorly drafted. It should be rejected.

As to early childhood issues, we applaud Governor Lamont for proposing the creation of a Universal Preschool Endowment, in H.B. No. 6867. Universal preschool would go a long way to improving the results of special education as the students move onto to kindergarten and beyond, providing both for better outcomes and future cost savings. The academic literature is clear that early intervention is far better than later remediation. A universal preschool program would provide full services to students with disabilities age 3 and older. Such services would be provided in a fully integrated environment. The test for eligibility for special education has two prongs: does the child have one of the 13 disabilities listed in the statute and, as a result of that disability, does the child need specialized instruction and related services. While universal preschool would not cure any disability it would reduce or eliminate the need for specialize instruction and related services when the child enters kindergarten or first grade. Further, we have all seen the incredibly discouraging National Assessment of Educational Performance results, showing only one-third of Connecticut’s 4th graders able to read proficiently. Universal preschool would, using the science of reading, teach young children early literacy scores resulting in more kids able to read by third grade. We do note that H.B. No. 6867 merely creates the endowment. It is silent on how and when universal preschool will be established.

We have serious concerns about H.B. No. 6923, limiting the use of smart devices in schools. While we fully understand the distraction caused by these devices and are carefully following the results seen in towns that are limiting them, we believe the requirements must reflect the needs of students with disabilities and not unduly stigmatize or segregate them. Assistive and adaptive technology are critical parts of the IEPs of many students. To permit such students to fit in and feel included, special educators and occupational therapists try to meet the student’s needs through the most convenient device that is in general use. Gone are the days of large assistive technology devices. Rather, iPhones, iPads and the like are used. They are precisely the instruments that are defined as smart devices in this bill. Certainly, even under this legislation, a student’s IEP can specify the use of such a device for a specific student. But, if the student with a disability is the only one able to use such a device, many benefits of inclusion are lost. If the student with a disability needs to use the device only in a separate setting, a new form

of segregation is created. We are not certain of the solution to this conundrum, but we think that some serious thinking must go into this matter before we adopt broad legislation like H.B. No. 6923.

S.B. No. 1244, an act making investments in in-district special education, contains some excellent provisions and some seriously troubling provisions. Sections 1 and 2 instruct the Department of Education to create and implement a methodology to set maximum rates for any provider of special education services. First, this imports the same coverage issues as we saw in S.B. No. 1288. Here, the word “private” is not present, so RESCs appear to be included. But also included is every speech therapist, occupational therapist, psychologist, BCBA, and evaluator hired by school districts. Second, the legislation provides no basis for determining maximum amounts of tuition. Do we define acceptable rates of profit for those schools run for profit and compare it to maximum salaries permitted for those in not-for-profit schools? Third, CSDE presently lacks the staff or competence to make these assessments. For this provision to work, we would need to create a mini-Public Utilities Commission, stocked with auditors and accountants. We need to wonder whether the cost of such a unit would result in comparable savings. It is important to point out that under CSDE’s current *Principles, Procedures, and Standards for the Approval of Private Special Education Programs*, adopted by the State Board of Education in February 2021, “A private facility shall maintain an accurate accounting system including an annual audit report prepared by a certified public accountant and shall provide, on request, to the contracting local school districts and to the CSDE, fiscal information on the operation of the school on such forms as the CSDE may require.” CSDE already has available to it substantial information on the cost of APSEPs but chooses to do nothing with it.

Besides the serious technical problems with the proposal, the concept of rate setting is fraught with problems. Rates could be set too high. Indeed, Massachusetts has a comprehensive rate setting system. Comparing similar schools in Massachusetts to those in Connecticut, the Massachusetts schools appear more expensive. Or, rates could be set too low, as they were in New York. The result was that a number of private schools decided to cease being state approved contractors. Instead, parents unilaterally place their children in such schools and sue the district for reimbursement. This often results in higher costs to the district, especially because the costs of settlement agreements for unilateral placement are not subject to excess cost reimbursement.

The Special Education Services and Funding Task Force considered a rate setting proposal and rejected the idea for these reasons. Instead, the Task Force proposed that, in any case in which the year over year increase in tuition costs for the same level of services to the same student substantially exceeds the Consumer Price Index, the State Department of Education be required to investigate whether the increase is reasonable. The Task Force is not expecting CSDE to be assessing reasonableness in many cases. Instead, this proposal sets parameters for APSEPs in setting rates. Indeed section 10 of H.B. No. 6866, the bill implementing the Governor’s budget recommendations, uses CPI as the benchmark for tuition increases by magnet schools. The Task Force also recommended that CSDE collate and make available to districts information on the tuition rates for each APSEP and each RESC program. This should put to rest any speculation that one district is getting a better deal than another district.

S.B. No. 1244 fails to address the issue of transportation to APSEPs and RESCs which, in many cases, can cost half as much as tuition or more. CSDE should be tasked with creating a digital clearinghouse to permit districts to share rides and their transportation costs. Further, CSDE should be required to study the basis for the high cost of transportation and explore whether having the state assume liability costs would substantially reduce the cost to districts of such transportation.

Section 3 of S.B. 1244 requires each local board of education to conduct a comprehensive review of all special education funding every five years. It is hard to decipher the purpose of this provision. School board budgets are already public and break out, in rather extensive detail, spending on special education. The state already published on EdSight the special education spending of each district. It is hard to see what this provision adds, except to impose a new mandate on local boards of education.

Section 4 of S.B. 1244 creates, in the second year of the biennial budget, a competitive grant program to develop in-district programs to reduce the need for placement at RESCs and APSEPs. SEEK strongly supports having students with disabilities educated side-by-side with their non-disabled peers in their local schools. The Task Force recommended the creation of a \$20 million pilot grant program to provide annual incentive grants to districts for the operational costs of new therapeutic programs and a 15% increase in state reimbursement for school construction to build needed facilities for such programs. The Governor recommended \$10 million for the grant program and \$4 million in bonding authority. The Governor also adopted the Task Force recommendation encouraging districts to work together to build such programs. Although the Governor's proposal is too little, too late, it is a step in the right direction.

H.B. No. 6866 implements the Governor's Budget Recommendations. Section 6 directs additional ECS funds to address chronic absenteeism, student disengagement and academic recovery. This is targeted at the disconnected youth highlighted in the 119K Commission report. SEEK supports this language, while pointing out that much of what we do in K12 education actually promotes alienation and disconnection. While we need to deal with the manifestation of this alienation, it is time that we address what how the current K12 public education system encourages young men to leave school, particularly through the excessive use of exclusionary discipline. In a similar vein, section 8 provides a new grant program for the LEAP program, which has proven successful in reducing chronic absenteeism.

Section 16 of H.B. 6866 establishes a much-needed high dosage tutoring grant program. What is not provided in this language is any provision explaining the relationship between this tutoring and special education. Tutoring to supplement core academic instruction is very much part of the specialized instruction provided to students with disabilities. Any statute providing for such a program needs to delineate whether this tutoring can be used as special education within a student's IEP.

S.B. No. 1287 and H.B. No 6924 are shells, presumably to be filled in later. SEEK has a long list of legislative priorities that we want this Committee to consider, presumably after the Select Committee on Special Education has produced its legislative products. We list those

priorities here but will presumably have another opportunity to discuss our proposals and concerns as the session wears on. Our legislative priorities are as follows:

Overall Funding of Education – Special education is grossly underfunded. Most of the problems identified in special education in the state could be remedied by a substantial infusion of funds. Connecticut has no funding exclusively for in-district special education. Increasing overall funding for education will support special education. Our goal is increased special education funding; yet, designating funds specifically to special education could distort municipal budgets in a way that would actually harm special education. So, we support a substantial increase in the Education Cost Sharing allocation.

Special Education Weight – The Education Cost Sharing (ESC) Formula does not include a weight for the number of students with disabilities in the district. We recommend a 50% weight. This is estimated to add \$160 million to the overall ESC appropriation. This recommendation is consistent with the recommendation of the 119K Commission.

Differential Pay for Shortage Occupations – Special education faces critical shortages of special education teachers, paraeducators, school psychologists, and speech and language pathologists, among others. Where there is a critical shortage, we need to raise pay to attract and retain needed staff. Paying shortage occupations more is not a statement that those occupations are more deserving. It is merely allowing the market to dictate what we need to pay to retain the staff we need.

ROTC Program for Teachers – The state should implement a ROTC-style program, starting in junior year in high school, to pay the student's costs associated with becoming a teacher, focused on students of color, bi-lingual students, and students with disabilities, in exchange for a five-year service commitment and the ability to assign the new teacher to school districts most in need.

Reduced Dependence on Local Property Taxes – Special education, like all education in Connecticut, suffers from gross inequity because we rely far too heavily on local property taxes. Increasing ESC funding would reduce our dependence on local property taxes.

Excess Cost Grant – While SEEK wants more money spent on developing and improving in-district programs, we recognize that the catastrophic insurance program, known as Excess Cost Reimbursement, is Connecticut's sole direct funding of special education. For fiscal year 2025, the shortfall looks to be over \$100 million. The Governor's proposal of an additional \$40 million in fiscal year 2027 is far too little, far too late.

Pilot Program to Build In-District Programs – The Governor's budget contains \$14 million for a competitive grant program to permit districts to develop in-district programs to reduce the need for out-of-district placements. The Task Force recommended \$20 million. The need is great; more is better. Particular incentives need to be provided to have districts work collaboratively to build programs.

Review of Large Cost Increases in Out-Of-District Placements -- The Task Force recommended that CSDE investigate, report and recommend appropriate solutions when the cost of an out-of-district placement for the same services for the same student goes up by more than the Consumer Price Index. SEEK sees this as a far better approach than the bureaucratic rate-setting approach recommended by the Governor in Governor's Bill No. 1244.

Transportation -- The cost of transportation to out-of-district placements is very high. CSDE should be tasked with creating a digital clearinghouse to permit districts to share rides and their transportation costs. Further, CSDE should be required to study the basis for the high cost of transportation and explore whether having the state assume liability costs would substantially reduce costs.

Cameras in Self-Contained Classrooms and Time-Out Rooms – Severely disabled students, many of whom are non-verbal spend much or all of their school days in self-contained classrooms. Having the ability to easily observe what is going on in those rooms provides a powerful tool for providing vital information to improve programs as well as ensuring the safety of students and educators. When a student comes home in distress, or with a physical injury such as a bruise, parents are often unable to determine the causes and so are wont to blame the school staff. Cameras and video will ensure that teachers are protected from false accusations and can provide a strong training vehicle.

Guaranteed Observations – Parents are partners in the educational planning process for students with disabilities. To be effective partners, they need to know what is going on in the classroom, either from their own observation or from the observation of their expert. Most districts permit observation; others do not. We seek guaranteed minimum observation rights, especially for experts retained by parents.

Same Day Notification of Restraint – When students suffer restraints at school, their parents need to know immediately so they can deal with whatever trauma the student has suffered when the student comes home from school.

Redefine and Ban Seclusion – Seclusion is defined as locking a student in a room, with or without an adult present, and is only permitted in dangerous situations. Seclusion serves no educational purpose and should be banned, except where a trained mental health professional is physically in the room and working with the student.

No Exclusionary Discipline for K-3 -- Despite legislation restricting its availability, students in the lower grades continue to be suspended out-of-school or expelled for behavior. This practice results in many of these students becoming alienated from the educational process. It is time to forbid out-of-school suspension or expulsion for young students altogether.

Training in Avoiding the Use of Restraint and Seclusion – Aversives, like restraint and seclusion, are used because educators often know of no viable alternative. There are alternatives available. CSDE should be tasked to provide guidance and training on how to avoid using restraint and seclusion.

Stronger CSDE Enforcement – Despite an annual certification to the federal government that districts are complying with the requirements of the IDEA, the Connecticut State Department of Education (CSDE) conducts only cursory monitoring and little enforcement. The Legislature needs to give CSDE the resources and the mandate to enforce the law. The suggestion to add a Special Education Ombudsman can be an effective step in this process allowing independent eyes reviewing the situation of families who do not have the resources to use the defined dispute resolution mechanisms.

Monitoring of Out-Of-District Placements, including RESCs – There is no doubt that the cost of Approved Private Special Education Programs (APSEPs) and Regional Education Service Center (RESC) programs have skyrocketed in the last few years. Yet, neither CSDE nor local school districts regularly monitor whether services are being provided as stipulated by the student's IEP, whether the services are of high quality, and whether the cost is justified. We seek legislation requiring periodic on-site visits as well as inquiries into the costs charged.

Independent Educational Evaluations for Low-Income Students – The special education system is based on evaluations. A parent can only challenge the appropriateness of a school program through an evaluation. The regulations allow for an Independent Education Evaluation (IEE) at public expense, but districts fight against providing them. We propose that IEEs be automatically available to students on free or reduced lunch. So as not to impose a financial burden on the poorest districts, the cost of these evaluations should be covered by the state.

CT-SEDS – Two years ago, CSDE implemented a new IEP form and software system. While the new form has improved features, it imposes a substantial burden on special educators to complete. Further, the software is rigid, resulting in districts frustrating student rights, especially in the case of unilateral parental placements. The Select Committee needs to look into this.

Study Growing Achievement Gap – Special education consumes an average of 25% of local school budgets to provide extra support to students with disabilities. Yet, in spite of 50 years of these expenditures, the achievement gap between students with disabilities and those without has not shrunk. Why is this and what can be done? The Legislature should commission the Neag School at UCONN to address this issue.

Medicaid Reimbursement for Related Services – School districts can bill Husky (Medicaid) for certain related special education services, with parental consent. Connecticut has some of the lowest utilization of Medicaid reimbursement for special education services in the country. Under current law, districts get 25 cents on the dollar for what they bill and the cost of doing the billing is high. We propose raising the reimbursement proportion to districts by reducing the 25% that goes to the Department of Social Services.

School-Based Health Centers – School-based health centers provide medical and psychological services at some 300 schools across the state, often reducing the need for special education services. Those that are operating need financial support from the state. Funds also need to be provided to open more and to assist existing centers in covering costs.

End Rigid 70 IQ Cut-OFF for Adult ID Services -- The Department of Developmental Services (DDS) has a rigid cut-off for eligibility of adult services at a tested IQ of 70 before age 18. This cut-off is not scientifically based and has nothing to do with the ability of the young adult to live and work independently. A person-centered evaluation approach should be used instead.

Ban on NDA in Settlement Agreements -- School districts enter into settlement agreements for parental unilateral placements, usually involving some form of cost sharing. Districts insist on non-disclosure agreements as part of these agreements to hide the fact that they are sharing in the tuition cost of certain students. Yet, this is public money, and the public has a right to know.

Structured Literacy Instruction in Teacher Training Curriculum – The Legislature has mandated that the science of reading be used in all schools. Yet, many teachers are not trained in how to implement a structure literacy program. Teacher training programs should require such a course.

Shelter-In-Place Drills – In the wake of the rash of school shootings, schools have begun implementing shelter-in-place drills. Yet, these drills can be traumatizing on many students, particularly those with disabilities. So, drills involving students should be limited to one per year. PPTs should also be required to consider the impact of such drills on students with disabilities and whether direct service may be required to help a student deal with both a drill and an actual emergency.

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SEEK pledges to work with this Committee. This Committee has always worked in a bi-partisan manner for the benefit of the children of Connecticut. We are pleased to report that, on most of the issues at play this year, all the special education stakeholders – parents, teachers, superintendents, private providers – are generally in agreement. The headline is that special education is grossly underfunded. The Governor’s proposal to add \$40 million to excess cost funding in the second year of the biennial budget does little to address the gaping budget shortfall now. Although decisions about overall budget levels and the fate of the guardrails rest with others, we urge this Committee to speak loudly and clearly about the need for substantially greater state resources for education in general and special education in particular.

Thank you.