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State of Connecticut
Department of Developmental Services



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Acting Commissioner

**DEPARTMENT OF DEVELOPMENTAL SERVICES TESTIMONY
BEFORE THE EDUCATION COMMITTEE**

March 16, 2017

Senators Slossberg and Boucher, Representatives Fleischmann and Lavielle and members of the Education Committee. I am Jordan A. Scheff, Acting Commissioner of the Department of Developmental Services (DDS). Thank you for the opportunity to testify on, and express my concerns regarding, **S.B. No. 1008 AN ACT CONCERNING THE FINANCIAL RESPONSIBILITY OF BOARDS OF EDUCATION RESULTING FROM RESIDENTIAL PLACEMENTS BY THE DEPARTMENT OF DEVELOPMENTAL SERVICES.** The stated purpose of this bill is to require the Department of Developmental Services to be financially responsible for the costs associated with the residential placement of a student.

The Connecticut Department of Developmental Services (DDS) is responsible for the planning, development, and administration of complete, comprehensive and integrated statewide services for persons with intellectual disability and persons medically diagnosed as having Prader-Willi syndrome. DDS provides and funds these services within available appropriations.

As you may know, in the past, the Department of Developmental Services (DDS) has voluntarily contributed to the funding of residential placements of school aged children on a case-by-case basis. There has been general confusion and some degree of misinformation about what the legal obligation of DDS is to fund residential placements for school aged children with intellectual disability. To that end, and in light of critical fiscal conditions, DDS sought an opinion from Connecticut's Attorney General regarding its fiscal responsibilities, vis-à-vis Local Education Agencies (LEAs), in these circumstances.

An opinion letter was issued by Attorney General George Jepsen on January 25, 2016 http://www.ct.gov/ag/lib/ag/opinions/2016/2016-01_residential_services.pdf, which affirmed that, in keeping with state and federal law, the duty to provide special education and related services is assigned to the LEA.

Although DDS will no longer voluntarily fund educational residential placements for school age children with intellectual disability, LEAs have been, and remain obligated, to fund educational residential placements in appropriate cases. Please note that this is not a change in law or policy. This is an application of existing law.

DDS will continue to review individual requests for funding on a case-by-case basis. However, federal law clearly articulates that the responsibility of local school districts is to provide and pay for residential services when such residential services are necessary for a school aged student with intellectual disability to receive an appropriate education.

In his opinion, Attorney General Jepsen states that:

1. "Under Connecticut's statutory scheme, local school districts (referred to as "local education agencies" ("LEAs") under the IDEA . . .) bear the legal obligation to provide the necessary "special education" . . . and "related services" . . . to enable a child to attain educational progress."
2. "In Connecticut, the LEA responsible for providing any necessary special education and related services is the district in which the school aged student (up to the end of the school year in which he or she turns 21 or until graduation, whichever occurs first) resides."
3. "If a residential placement is needed to enable the student to achieve meaningful education progress, it is a necessary related service and the school district must pay for it."
4. "This conclusion does not rest on any change in the law governing allocation of responsibility for funding a residential placement. The relevant statutes have never imposed that responsibility on DDS (or its predecessor agencies) as a legal obligation."
5. "[O]n occasion, DDS or other agencies have chosen as a matter of policy to provide fiscal support for residential placements. That policy choice was and remains one that the agency may properly make . . . but it is not . . . compelled to do so by law."

Services provided by DDS are not an entitlement and are provided only within available appropriations. DDS is not obligated, and has never been obligated, by state or federal law to fund residential special education services. Therefore, while DDS has discretion to fund a residential placement for a student, it is not required to do so. At this time, and for the foreseeable future, DDS is unable to voluntarily fund any new request for a residential placement for a school aged child. If a parent or guardian of a student believes residential services are necessary for a school aged student to attain educational progress, they may request a Planning and Placement Team (PPT) meeting from their LEA and formally request the provision of residential services. Any family who is not receiving services from DDS also may request a residential placement through the LEA. It is the PPT's responsibility to decide whether there is an educational benefit for this type of placement. As always, DDS analyzes the needs of the individuals it supports on a case-by-case basis.

Also, there are procedures if a family disagrees with the PPT's decision. The Connecticut State Department of Education's Bureau of Special Education can provide information and guidance to the family about these procedures. DDS recognizes and carries out its responsibility for interagency collaboration in the transition planning process. Adult services may appear complex and an understanding of these services is essential for a student's effective transition from school to adulthood. Within the limits of available resources, DDS staff may be available to attend PPT meetings to help the team understand the DDS eligibility process, the services that are available, the individual needs of an individual child or young adult, and what it means to transition to services that are not an entitlement.

The mission of DDS continues to be to partner with the individuals it supports and their families, to support lifelong planning and to join with others to create and promote meaningful opportunities for individuals to fully participate as valued members of their communities. Should legislation be passed into law requiring DDS to fund residential placements for school aged children, there would be a significant fiscal impact and DDS would either require additional funding, or would be forced to reduce the amount of funding and services already provided to other individuals.

Thank you again for the opportunity to offer testimony in opposition to [**S.B. No. 1008**](#) **AN ACT CONCERNING THE FINANCIAL RESPONSIBILITY OF BOARDS OF EDUCATION RESULTING FROM RESIDENTIAL PLACEMENTS BY THE DEPARTMENT OF DEVELOPMENTAL SERVICES**. I would be happy to answer any questions you have at this time. You may also contact Christine Pollio Cooney, DDS Director of Legislative and Executive Affairs at (860) 418-6066 with additional questions.