

## DDS Legislative Update – February 20, 2015

### CHANGE in Date and Time of Program Review and Investigations Public Hearing

The Program Review and Investigations (PRI) Committee has postponed the scheduled **public hearing on Autism Transition Services and the Federal Achieving a Better Life Experience (ABLE) Act until Friday, February 27, 2015 at 1:00 pm in Room 2D** of the Legislative Office Building. Please see below for the updated information on this rescheduled LPRIC public hearing.

### Public Hearing on Autism Transition Services – Friday, February 27, 2015

Below is revised information on how to testify or submit testimony to the Program Review and Investigations Committee. Persons who want to submit written testimony in lieu of testifying in-person may do so at the email address highlighted below. **Also below are links to the two PRI autism transition service bills and the text of each bill.**

The Program Review and Investigations Committee will hold a public hearing on **Friday, February 27, 2015 at 1:00 P.M. in Room 2D** of the LOB. **Public hearing sign-up will begin at 11:00 A.M. in the Second Floor Atrium of the LOB.** Please submit 30 copies of written testimony to Committee staff by 12:00 P.M. in the Second Floor Atrium of the LOB. Testimony received after the designated time may not be distributed until after the hearing. Please email written testimony in Word or PDF format to [PRItestimony@cga.ct.gov](mailto:PRItestimony@cga.ct.gov). The first hour of the hearing is reserved for Legislators, Constitutional Officers, State Agency Heads and Chief Elected Municipal Officials. **Speakers will be limited to three minutes of testimony.** The Committee encourages witnesses to submit a written statement and to condense oral testimony to a summary of that statement. Unofficial sign-up sheets have no standing with the Committee. All public hearing testimony, written and spoken, is public information. As such, it will be made available on the CGA website and indexed by internet search engines.

### **H.B. No. 6737 AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING TRANSITIONAL SERVICES FOR YOUTH AND YOUNG ADULTS WITH AUTISM SPECTRUM DISORDER**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

**Section 1. Subparagraph (D) of subdivision (8) of subsection (a) of section 10-76d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):**

**(D) Immediately upon the formal identification of any child as a child requiring special education and at each planning and placement team meeting for such child, the responsible local or regional board of education shall inform the parent or guardian of such child or surrogate parent or, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil of (i) the laws relating to special education, (ii) the rights of such**

parent, guardian, surrogate parent or pupil under such laws and the regulations adopted by the State Board of Education relating to special education, including the right of a parent, guardian or surrogate parent to withhold from enrolling such child in kindergarten, in accordance with the provisions of section 10-184, and (iii) any relevant information and resources relating to individualized education programs created by the Department of Education, including, but not limited to, information relating to secondary transition resources and services for high school students. If such parent, guardian, surrogate parent or pupil does not attend a planning and placement team meeting, the responsible local or regional board of education shall mail such information to such person.

Sec. 2. Section 10-76b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) The State Board of Education shall provide for the development and supervision of the educational programs and services for children requiring special education and may regulate curriculum, conditions of instruction, including the use of physical restraint and seclusion pursuant to chapter 814e, physical facilities and equipment, class composition and size, admission of students, and the requirements respecting necessary special services and instruction to be provided by local and regional boards of education. The State Board of Education shall adopt regulations, in accordance with the provisions of chapter 54, concerning the use of physical restraint and seclusion pursuant to chapter 814e. The educational aspects of all programs and instructional facilities in any day or residential child-caring agency or school which provides training for children requiring special education and which receives funding from the state under the provisions of sections 10-76a to 10-76g, inclusive, shall be subject to the approval and supervision of the commissioner in accordance with regulations adopted by the State Board of Education concerning requirements for such programs and accommodations.

(b) The commissioner shall designate by regulation, subject to the approval of the State Board of Education, the procedures which shall be used to identify exceptional children.

(c) Said board shall be the agency for cooperation and consultation with federal agencies, other state agencies and private bodies on matters of public school education of children requiring special education, provided the full responsibilities for other aspects of the care of such children shall be reserved to such other agencies.

(d) The State Board of Education shall ensure that local and regional boards of education are providing the information described in subparagraph (D) of subdivision (8) of subsection (a) of section 10-76d, as amended by this act, to the parent or guardian of a child requiring special education or surrogate parent or, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil.

Sec. 3. (NEW) (*Effective July 1, 2015*) (a) As used in this section, "parent" means the parent or guardian of a child requiring special education or surrogate parent or, in the case of a pupil who is an emancipated minor or eighteen years of age or older, the pupil.

**(b) On or before July 1, 2015, the State Board of Education shall draft a written parents' of children receiving special education services bill of rights to guarantee that the rights of such parents and children are adequately safeguarded and protected during the provision of special education and related services under chapter 164 of the general statutes. Such bill of rights shall inform parents of: (1) The right to request consideration of the provision of transitional services only for their son or daughter who is eighteen to twenty-one years of age, (2) the right to receive secondary transition resources and materials from the department and the local or regional board of education responsible for their child, (3) the requirement that the local or regional board of education responsible for their child shall create a student success plan for each student enrolled in a public school, beginning in grade six, pursuant to subsection (j) of section 10-221a of the general statutes, and (4) the right of their child to receive realistic and specific postgraduation goals as part of such child's individualized education program.**

**(c) For the school year commencing July 1, 2015, and each school year thereafter, the Department of Education shall annually distribute the written parents' of children receiving special education services bill of rights in grades six to twelve, inclusive, at a planning and placement team meeting for such child.**

**Sec. 4. (*Effective July 1, 2015*) The Commissioner of Rehabilitation Services, in consultation with the Commissioner of Education, the Commissioner of Mental Health and Addiction Services, the Commissioner of Developmental Services and the Labor Commissioner, or the commissioners' designees, shall develop a definition for "competitive employment" to be used by each agency in relation to state matters. Not later than February 1, 2016, the Commissioner of Rehabilitation Services shall report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to human services, education, public health and labor concerning the definition developed in accordance with this section.**

**Sec. 5. (*NEW*) (*Effective July 1, 2015*) Not later than February 1, 2016, and annually thereafter, the Commissioner of Developmental Services shall report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to public health concerning the activities of the Department of Developmental Service's Division of Autism Spectrum Disorder Services, established pursuant to section 17a-215c of the general statutes, and the Autism Spectrum Disorder Advisory Council, established pursuant to section 17a-215d of the general statutes. Such report shall include, but not be limited to: (1) The number and ages of persons with autism spectrum disorder who are served by state agencies; (2) the number and ages of persons with autism spectrum disorder on the department's wait list for waiver services; (3) the type of waiver services currently provided by the department to persons with autism spectrum disorder; (4) a description of the unmet needs of persons with autism spectrum disorder; (5) the projected estimates for a five-year period of the costs to the state due to such unmet needs; (6) measurable outcome data for persons with autism spectrum disorder, including, but not limited to, (A) the number of such persons who are enrolled in postsecondary education, (B) the employment status of such persons,**

and (C) a description of such persons' living arrangements; and (7) a description of new initiatives and proposals for new initiatives that are under consideration.

*Statement of Purpose:* To implement the recommendations of the Program Review and Investigations Committee concerning transitional services for youth and young adults with autism spectrum disorder.

**H.B. No. 6738 AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE CONCERNING THE FEDERAL ACHIEVING A BETTER LIFE EXPERIENCE ACT**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

**Section 1. (NEW) (*Effective October 1, 2015*) As used in this section and sections 2 to 8, inclusive, of this act:**

(1) "Achieving a better life experience account" or "ABLE account" means an account established and maintained pursuant to sections 2 to 8, inclusive, of this act, that is established and owned by an eligible individual for the purposes of qualified disability expenses.

(2) "Designated administrator" means any corporation designated by the Treasurer for the purpose of administering ABLE accounts.

(3) "Disability certification" means, with respect to an individual, a certification by the individual or the parent or guardian of the individual that satisfies the Secretary of the Treasury of the United States that (A) the individual has a medically determinable physical or mental impairment, that results in marked and severe functional limitations, and that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months, or is blind, within the meaning of Section 1614(a)(2) of the Social Security Act, and (B) such impairment or blindness occurred before the date on which the individual attained the age of twenty-six, and (C) a physician has signed a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments.

(4) "Eligible individual" means an individual who is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained the age of twenty-six, and a disability certification with respect to such individual is filed with the State Treasurer.

(5) "Designated beneficiary" means any individual state resident or resident of a contracting state originally designated in the participation agreement, who is an eligible individual and is the owner of an ABLE account.

**(6) "Depositor" means any person making a deposit, payment, contribution, gift or otherwise in an ABLE account pursuant to a participation agreement.**

**(7) "Internal Revenue Code" means the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended.**

**(8) "Participation agreement" means an agreement between the trust and depositors for participation in an ABLE account for a designated beneficiary.**

**(9) "Contracting state" means a state without a qualified ABLE program that has entered into a contract with this state to provide residents of the contracting state with access to qualified ABLE programs.**

**(10) "Physician" means a person licensed under chapter 370 of the general statutes.**

**(11) "Qualified disability expenses" means any expenses related to an eligible individual's blindness or disability that are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: Education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses that are approved by the Secretary of the Treasury of the United States under regulations and consistent with the purposes of this section and sections 2 to 8, inclusive, of this act.**

**Sec. 2. (NEW) (*Effective October 1, 2015*) (a) There is established within the Office of the State Treasurer the achieving a better life experience trust for the purposes of administering ABLE accounts to encourage and assist eligible individuals and families in saving private funds to provide support for individuals with disabilities. Under the trust, a person may make contributions to one ABLE account to meet the qualified disability expenses of the designated beneficiary of the account. The trust shall constitute an instrumentality of the state and shall perform essential governmental functions, as provided in sections 1 to 8, inclusive, of this act. The trust shall receive and hold all payments and deposits or contributions intended for ABLE accounts as well as gifts, bequests, endowments or federal, state or local grants and any other funds from any public or private source and all earnings, until disbursed in accordance with sections 1 to 8, inclusive, of this act.**

**(b) The amounts on deposit in the trust shall not constitute property of the state and the trust shall not be construed to be a department, institution or agency of the state. Amounts on deposit in the trust shall not be commingled with state funds and the state shall have no claim to or against, or interest in, such amounts. Any contract entered into by, or any obligation of, the trust shall not constitute a debt or obligation of the state and the state shall have no obligation to any designated beneficiary or any other person on account of the trust and all amounts obligated to be paid from the trust shall be limited to amounts available for such obligation on deposit in the trust. The amounts on deposit in the trust**

may only be disbursed in accordance with the provisions of sections 1 to 8, inclusive, of this act. The trust shall continue in existence as long as it holds any deposits or has any obligations and until its existence is terminated by law, and upon termination any unclaimed assets shall return to the state. Property of the trust shall be governed by section 3-61a of the general statutes.

(c) The State Treasurer shall be responsible for the receipt, maintenance, administration, investing and disbursements of amounts from the trust. The trust shall not receive deposits in any form other than cash. No depositor or designated beneficiary may direct the investment of any contributions or amounts held in the trust other than in the specific fund options provided for by the trust and shall not direct investments in such specific fund options more than two times in any calendar year. No interest, or portion of interest, in the program shall be used as security for a loan.

(d) A person may make contributions to an ABLE account to meet the qualified disability expenses of the designated beneficiary of the account, provided the trust and contributions meet the other requirements of this section, the ABLE Act of 2014, P.L. 113-295, as amended from time to time, and any regulations adopted thereunder by the Secretary of the Treasury of the United States.

(e) On or before June 30, 2016, and annually thereafter, the Treasurer shall submit (1) in accordance with the provisions of section 3-37 of the general statutes, a report to the Governor on the operations of the trust, including the receipts, disbursements, assets, investments and liabilities and administrative costs of the trust for the prior fiscal year, and (2) in accordance with the provisions of section 11-4a of the general statutes, a report on the trust to the joint standing committee of the General Assembly having cognizance of matters relating to public health, and shall make such report available to each depositor and designated beneficiary. The report described in subdivision (2) of this subsection shall include, but not be limited to: (A) The number of ABLE accounts, (B) the total amount of contributions to such accounts; (C) the total amount and nature of distributions from such accounts; and (D) a description of issues relating to the abuse of such accounts.

**Sec. 3. (NEW) (*Effective October 1, 2015*)** The Treasurer, on behalf of the trust and for purposes of the trust, may:

(1) Receive and invest moneys in the trust in any instruments, obligations, securities or property in accordance with section 4 of this act;

(2) Establish consistent terms for each participation agreement, bulk deposit, coupon or installment payments, including, but not limited to, (A) the method of payment into an ABLE account by payroll deduction, transfer from bank accounts or otherwise, (B) the termination, withdrawal or transfer of payments under an ABLE account, including transfers to or from a qualified ABLE program established by another state pursuant to the ABLE Act of 2014, P.L. 113-295, as amended from time to time, (C) penalties for distributions not used or made in accordance with said act, and (D) any charges or fees in connection with the administration of the trust;

**(3) Enter into one or more contractual agreements, including contracts for legal, actuarial, accounting, custodial, advisory, management, administrative, advertising, marketing and consulting services for the trust and pay for such services from the gains and earnings of the trust;**

**(4) Procure insurance in connection with the trust's property, assets, activities or deposits or contributions to the trust;**

**(5) Apply for, accept and expend gifts, grants or donations from public or private sources to enable the achieving a better life experience program to carry out its objectives;**

**(6) Sue and be sued;**

**(7) Establish one or more funds within the trust and maintain separate ABLE accounts for each designated beneficiary; and**

**(8) Take any other action necessary to carry out the purposes of sections 1 to 8, inclusive, of this act and incidental to the duties imposed on the Treasurer pursuant to said sections.**

**Sec. 4. (NEW) (*Effective October 1, 2015*) Notwithstanding sections 3-13 to 3-13h, inclusive, of the general statutes, the State Treasurer shall invest the amounts on deposit in the trust in a manner reasonable and appropriate to achieve the objectives of such trust, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The Treasurer shall give due consideration to rate of return, risk, term or maturity, diversification of the total portfolio within the trust, liquidity, the projected disbursements and expenditures and the expected payments, deposits, contributions and gifts to be received. The Treasurer shall not require the trust to invest directly in obligations of the state or any political subdivision of the state or in any investment or other fund administered by the Treasurer. The assets of the trust shall be continuously invested and reinvested in a manner consistent with the objectives of such trust until disbursed for qualified disability expenses, expended on expenses incurred by the operations of the trust or refunded to the depositor or designated beneficiary on the conditions provided in the participation agreement.**

**Sec. 5. (NEW) (*Effective October 1, 2015*) Participation in the trust and the offering and solicitation of the trust are exempt from sections 36b-16 and 36b-22 of the general statutes. The Treasurer shall obtain written advice of counsel or written advice from the Securities Exchange Commission, or both, that the trust and the offering of participation in the trust are not subject to federal securities laws.**

**Sec. 6. (NEW) (*Effective October 1, 2015*) The property of the trust and the earnings on the trust shall be exempt from all taxation by the state and all political subdivisions of the state.**

**Sec. 7. (NEW) (*Effective October 1, 2015*) The state pledges to depositors, designated beneficiaries and with any party who enters into contracts with the trust, pursuant to the provisions of sections 1 to 8, inclusive, of this act that the state will not limit or alter the**

rights under said sections vested in the trust or contract with the trust until such obligations are fully met and discharged and such contracts are fully performed on the part of the trust, provided nothing contained in this section shall preclude such limitation or alteration if adequate provision is made by law for the protection of such depositors and designated beneficiaries pursuant to the obligations of the trust or parties who entered into such contracts with the trust. The trust, on behalf of the state, may include this pledge and undertaking for the state in participation agreements and such other obligations or contracts.

**Sec. 8.** Section 3-220 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2015*):

The Treasurer shall take any action necessary to ensure that the trust complies with all applicable requirements of federal and state laws, rules and regulations to the extent necessary for the trust to constitute a qualified state tuition program and be exempt from taxation under Section 529 of the Internal Revenue Code and the ABL Act of 2014, P.L. 113-295.

**Sec. 9. (NEW)** (*Effective October 1, 2015*) Notwithstanding any provision of the general statutes, no moneys invested in the ABL accounts shall be considered to be an asset for purposes of determining an individual's eligibility for assistance under the temporary family assistance program, as described in section 17b-112 of the general statutes, programs funded under the federal Low Income Home Energy Assistance Program block grant, and the federally appropriated weatherization assistance program, as described in section 16a-41i of the general statutes.

*Statement of Purpose:* To implement the recommendations of the Program Review and Investigations Committee concerning the federal Achieving a Better Life Experience Act of 2014.

## **[Links to the General Assembly and Legislative Committees](#)**

**[Connecticut General Assembly](#)**

**[Appropriations Committee](#)**

**[Public Health Committee](#)**

**[Human Services Committee](#)**

**[Program Review and Investigations Committee](#)**

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