

# VERMONT LEGAL AID, INC.

## DISABILITY LAW PROJECT

264 NORTH WINOOSKI AVE.- P.O. BOX 1367  
BURLINGTON, VERMONT 05402  
(802) 863-5620 (VOICE AND TTY)  
FAX (802) 863-7152  
(800) 747-5022

OFFICES:

BURLINGTON  
RUTLAND  
ST. JOHNSBURY

OFFICES:

MONTPELIER  
SPRINGFIELD

### Testimony before the Education Committee of the Vermont Senate

Sherrie Brunelle, Paralegal  
Disability Law Project, Vermont Legal Aid, Inc.

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Thank you for the opportunity to speak with you about special education, an issue that has been part of my personal and professional life for 40 years. I first entered the world of special education as a parent advocating for the needs of my children with disabilities and later as an advocate for the children of other families traveling the same path. That advocacy led to a career change when, in 1986, I left nursing, returned to school and began a career as a paralegal with the Disability Law Project at VT Legal Aid in 1988. In my 28 years with the DLP, the overarching focus of my work has been in the area of special education. I have advocated for children with disabilities, served on many work groups and committees convened by the Agency of Education, helped draft and comment on proposed special education and other education rules, and testified before the legislature. Most recently, I serve as a member of the VT Special Education Advisory Council mandated under the federal special education law, the Individuals with Disabilities Education Act or IDEA. The Special Education Advisory Council is charged with advising the Agency of Education on all matters related to special education. To be clear, I am not here to testify on behalf of the Advisory. Based on my experiences over these many years, I consider myself to be very knowledgeable, if not an expert, in what the law requires of local and state education entities with regard to the education of children and youth with disabilities.

Over these past 28 years, I have seen and/or participated in numerous attempts to figure out how best to serve students with disabilities and best manage the limited resources of our State and local communities. There have been multiple studies of special education funding models going back to Act 235 (1988). I believe the most recent was required under Act 117 (2000). For reference I attach a list of those studies known to me. All of these funding studies spoke to the need for greater accountability and flexibility in the use of appropriated funds and cost containment. The studies also addressed the need for better coordination with other funding sources such as the Agency for Human Services. Ultimately, the goal of these studies was better outcomes for children, including those with disabilities.

A number of the studies were elements of legislation focused on improving the supports available within the general education environment with the intended goal of reducing the number of students needing special education and, thereby, reducing the costs of special

education. We have seen Act 230 (1990), Act 157 (1996) and Act 117 (2000). The current iterations of those efforts are embodied in the promotion of two approaches: (1) a Multiple Tiered System of Support (MTSS) in every school district as set forth in the VT education quality standards and (2) the SWIFT initiative. These more recent initiatives have the same goal as Act 230 but are more evidenced based approaches which I applaud and support. Yet, I am troubled by the fact that despite 26 years of focus on creating a continuum of supports within the general education environment since Act 230, access to the desired system of supports often depends on where a student lives and whether the model is implemented with fidelity, if at all. It also depends on the availability of highly trained educators and whether there are sufficient resources within the schools and community to support the needs of families in crisis due to poverty, homelessness, child trauma, and addiction. One only needs to look at the rising number of children and youth with emotional disabilities our schools are being asked to support.

I am not very knowledgeable, and certainly no expert in the funding of education, generally, or special education, specifically. I do not know what the appropriate funding structure for special education is. However, while I agree we need to look at the funding structure for special education and applaud the House Education Committee's commitment to undertaking this challenge, I share the concerns expressed by my colleague, Ms. Mahusky, and others who have urged a cautious and more integrated approach. Moreover, I do not feel that a study of the funding model is in and of itself enough. We need to figure out why, after 26 years, we still do not have the educational support system envisioned by Act 230. Is it the funding mechanism? Is there a need to improve pre-service training for educators? Is there inadequate ongoing professional development for educators and other providers? Do we need to look again at the issue of interagency collaboration mandated under Act 264 for children with emotional disabilities where coordination between agencies is an entitlement, but funding is not? We need answers to these questions and more.

I understand that H.859 has as its genesis, the study conducted by Picus Odden & Associates. But as Dr. Michael Giangreco pointed out in his testimony before the House Education Committee earlier this session, the data used in the study is seriously flawed. In my review of the report, that study also reflects a lack of understanding of federal special education law and education in Vermont. Accordingly, the recommendations are, in my opinion, flawed.

The exception to my concerns about the Picus Report is the finding regarding the inappropriate and over use of paraeducators with children and youth that have significant disabilities. However, we are fortunate to have a much better resource on this issue available right here in Vermont – Dr. Michael Giangreco. We should be relying on his knowledge and expertise when making decisions about how best to serve high needs children and youth.

With respect to H. 859, I again applaud the House Education Committee's interest in improving our special education funding model. I am impressed with what I know of the work of Dr. Tammy Kolbe at UVM. However, I do not believe that this is the time to conduct a significant study or reform of special education funding. There have been many changes imposed on our education system and our Agency of Education in recent years such as the enactment of Acts

46 and 166, creation of flexible pathways to graduation, dual enrollment opportunities, proficiency based graduation requirements, and personalized learning plans for all students. If we want valid and reliable data upon which to make decisions regarding funding and other matters, we need to allow time for these changes to be implemented.

I am also encouraged by the promising work of Mr. Nate Levinson and the District Management Council with the Chittenden South Supervisory Union and the Franklin West Supervisory Union. If there is a “stand alone” element of H. 859, this is it. That said; I think that providing this resource to school districts and supervisory unions must be part of a larger initiative to conduct a more comprehensive study addressing our ongoing failure of 26 years to establish the continuum of supports within the general education system that is the essential foundation for reducing the costs of special education and achieving better outcomes for children with and without disabilities.

I would suggest the creation of a commission or other legislative study committee charged to-

- Evaluate barriers to the establishment of a comprehensive system of supports for struggling learners within the general education environment;
- Make recommendations to overcome those barriers which could include changes in the way that we fund general and special education services in Vermont; and
- Ensure that the rights set forth in the IDEA and Section 504 are maintained and enforced.

The commission or study committee should include representation from all stakeholders, including the families of and advocates for children with disabilities, AOE staff, educators within the general and special education systems, administrators, school boards, individuals knowledgeable of education funding mechanisms, representatives from other agencies that might have responsibility for the provision or funding of services needed by children with disabilities, and perhaps legislators. There would need to be funding allocated to staff and support the work of the commission or committee. I do not recommend that the legislature direct the Agency of Education to convene and staff this group. The AOE is already overwhelmed with new initiatives without a commensurate increase in staffing required to take on new initiatives and maintain its other obligations.

Thank you for your time and consideration of my testimony before you today.

## **Studies of Special Education Funding**

- Act 230 and Special Education Funding and Cost Study (January 1995)
- A Profile of Special Education Finance Reform in Vermont (March 1995)
- The Education We Need At a Cost We Can Afford: Report of the Cost and Quality Commission (November 1995)
- Vermont Special Education: Expenditures, Equity and Outcomes (January 1997)
- Blue Ribbon Commission on Special Education Costs: Report on Fiscal Year 2000 Differential Funding (December 1998)
- Blue Ribbon Commission on Special Education Costs: Report to the Legislative Oversight Committee on Restructuring Education (July 1999)
- Report of the Provision of Special Education Services: In regard to cost allocation, upper limit on age eligibility, and interagency coordination (January 2001)