

TESTIMONY REGARDING SB 22

by

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Due to a scheduling conflict, I was unable to attend the March 23rd hearing on SB 22. Although this bill is silent regarding students with disabilities, if it passes, it will impact them both positively and negatively, and therefore both Disability Rights Wisconsin (DRW), and the Quality Education Coalition (QEC) are submitting this testimony to inform you about the pros and cons of this legislation regarding students with disabilities.

To begin with, it is important to understand that in general charter schools are theoretically subject to both state and federal special education law, as well as other anti-discrimination laws, such as the ADA and Sec. 504 of the Rehabilitation Act, since they are public schools. For some children with disabilities who have not been well served by the regular public school system where they live, charter schools have provided them with an appropriate education.

However, due to the very nature of the specialized character of charter schools, many charter schools exclude children with cognitive, learning and/or behavioral disabilities. They do so by having certain academic or behavioral entrance criteria, which on their face, exclude these children. This problem was recently exemplified when the U.S. Dept. of Justice settled a nationwide case against the for-profit Charter School provider—Nobel Learning Communities, Inc., requiring a payment of \$215,000 to children with disabilities excluded from Nobel charter schools on the basis of disability and securing an agreement from Nobel to cease screening out children with disabilities from their schools. Sadly, SB 22 does nothing to change this exclusion, and as I will point out below, for a number of reasons, may exacerbate this problem.

Since SB 22 seeks to expand the authorization and use of charter schools in Wisconsin, DRW and QEC believe that such expansion is only acceptable, if in fact, certain protections are put in place to ensure that this expansion will not continue to exclude the large majority of children with disability from deriving the potential benefits of charter schools. In addition, there is an extraordinary opportunity in Wisconsin with a proposed expansion of charters to open schools which are truly progressive and inclusive and enhance the learning of all students – regardless of ability level as described further below.

The first way to ensure that charter schools are equipped to serve children with disabilities is to make sure that their educators are qualified to teach students with disabilities. However, Section 18 of the bill is silent regarding any requirement that the rules which DPI is required to promulgate ensure that charter school teachers know anything about teaching students with disabilities. Research shows that students with disabilities perform better when their teachers receive adequate evidence-based training. Indeed, if Wisconsin's charter schools are intended to be truly available for all types of students and families, this bill should be

amended to reflect that a student with a disability could attend a charter school and expect to find teachers who are qualified to teach students with disabilities.

Section 44 is very disturbing as it immunizes the chartering entity from both civil and criminal liability for anything the charter school may do. Regarding students with disabilities, this provision means that if a charter school puts into its charter that it will not follow any of the laws that protect the rights of students with disabilities, the chartering entity cannot be held liable for approving such a blatant violation of civil rights.

Section 45 also shows that students with disabilities have not been considered in the drafting of this legislation. This section states that charter schools must comply with the Elementary and Secondary Education Act. However, it is curiously silent as to the need for charter schools to comply with the Individuals with Disabilities Education Act (IDEA), or the ADA or Section 504 of the Rehabilitation Act. These pieces of federal legislation are essential to the appropriate education of students with disabilities and the bill should be amended to reflect that charter schools must comply with these provisions.

Indeed, the provision for removal of students from virtual charter schools, found in Section 51 clearly violates the discipline provisions of the IDEA, as the behavior described in that section cannot be used to change a child with a disability's placement, if such behavior was a manifestation of the child's disability. Further, Section 52's provision to appeal such removals does not conform to IDEA due process rights. Accordingly, we request that quality charter schools in Wisconsin should be both welcoming to students with disabilities and guarantee their appropriate public education. In order to have accurate information regarding the level and extent which charter schools serve children with disabilities, we also urge an amendment to this legislation which requires charter schools to report annually to DPI on the number and type of children with disabilities which they serve in their schools.

As you will recall, I previously mentioned that there are public charter school models which advocates for quality public education for children with disabilities promote. In California, the CHIME Institute is a K-8 charter renowned for its inclusive program that teaches youngsters of all levels and abilities – from gifted to those with severe disabilities – side by side in the classroom. Teachers at CHIME work in teams that include a special education instructor and at least one aide. The team members collaborate to develop a curriculum that students in their diverse classrooms can understand. While some charter schools have been accused of failing to adequately service special education students, CHIME is recognized as a model school. This is the type of model Wisconsin should work toward and that this bill should promote.

In sum, both DRW and QEC support the concept of charter schools if they are equally available and designed to serve children with the full range of disabilities. We hope the information in this testimony will enable the committee to amend the bill to garner our support, and more importantly, to ensure that the potential benefits of charter schools, truly benefit ALL Wisconsin children, including those with disabilities. Failure to make these changes will continue Wisconsin's path towards further segregation of children with disabilities and overburdening local school districts with an ever higher percentage of its student body composed of students with disabilities who are not served by charter schools or other alternative education locales.

Should any committee members wish to discuss our concerns with SB 22 and our ideas to improve it, feel free to contact me.