



Disability Rights Iowa

LEGAL PROTECTION AND ADVOCACY

Disability Rights Iowa

HSB 542/SSB 3073 – Testimony in Opposition

January 31, 2024

Chairpersons and honorable members of the Committee. My name is Catherine E. Johnson. I am the Executive Director of Disability Rights Iowa. DRI is an independent, non-profit agency, which serves as the designated protection and advocacy system for people with disabilities in the state of Iowa, pursuant to federal mandates. The mission of the agency is to protect and advocate for the human and legal rights of Iowans with disabilities. I appear before you to share DRI's concerns regarding the impact of HSB 542/SSB 3073 on the Disability Community.

DRI's expertise in special education

DRI represents students with disabilities who are at risk of being pushed out of school due to their disabilities. Our cases typically involve students with complex behavioral needs who face a substantial number of suspensions, restraints, and seclusions, shortened school days, and other disciplinary matters that interfere with their ability to receive the education they deserve. As part of this work, we attend IEP meetings, work with schools and AEAs to obtain appropriate supports and services that enable students to remain in school and represent families in dispute resolution proceedings.

HSB 542/SSB 3073 would have a significant impact on students with disabilities:

HSB 542 and SSB 3073 are long and complex bills that significantly impact students with disabilities in Iowa. There is not enough time in this brief testimony to explain all the ways that these bills could harm education opportunities for students with disabilities, this is merely a brief overview of the impact of this legislation.



The Individuals with Disabilities Education Act (IDEA) requires that schools provide students with disabilities with a Free and Appropriate Public Education (FAPE). To do this, students must be evaluated in a variety of areas, such as academics, behaviors, mental health, social skills, and accommodations and modifications. Those evaluations are then interpreted to determine in what areas a student needs additional support and services. Those supports and services are written out in an Individualized Education Program (IEP) by the IEP team, who are then responsible for ensuring students receive everything laid out in the IEP. While the ultimate responsibility to provide FAPE rests with school districts, AEAs are regular members of the IEP team and are frequently relied upon by both school districts and parents to ensure students with disabilities receive the education they deserve.

Without AEAs, school districts are left to navigate this complex, highly technical, and individualized process on their own. Most school districts do not currently have the capacity to handle this process on their own. With this legislation proposed to take effect before the 2024-2025 school year, there is little time for them to prepare. This means that students will face significant disruptions in their services, and perhaps lose services altogether.

I. Less oversight of schools and private providers

- AEAs help schools comply with their legal obligations to follow IEPs and update them when necessary to better serve a student's needs. They do this through regular fidelity checks, attending IEP meetings, conducting evaluations, and connecting schools and families to additional resources.
- The Department of Education is not currently equipped to step into this key role, and nothing in this legislation helps them build up that capacity.
- This legislation does not address how private providers will be held accountable for ensuring their services provide students with FAPE and that private schools do not discriminate against students with disabilities.
- Without AEA involvement and oversight, students with disabilities will be more likely to have IEPs that do not comply with state and federal laws, not properly followed, nor individually tailored.
- Parents will have fewer options to enforce their student's IDEA rights. Rather than resolving disputes at IEP team meetings with the help of AEAs, parents will have to resort to more expensive, time consuming, and complicated dispute resolution options through the legal system.

II. Fewer resources and services available

- Special Education often requires the expertise of highly trained professionals to provide individualized services and resources to students with disabilities. Such services include:
 - Speech language therapists, occupational therapists, mental health counselors, specially designed curriculums, modified and accessible curriculum and materials, assistive technology like speech and writing devices, trauma-informed methods, challenging behavior strategies, skilled nursing services, and the list goes on and on.
- These services and resources are often expensive and in high demand with long wait lists and lack of providers. Delaying a student's access to these services and resources due to financial strain or a shortage of providers may violate a school's obligation to identify and evaluate students with disabilities and provide them with FAPE.
 - This delay causes students to lose valuable educational time, regress in their learning and growth, receive lower grades and test scores, risk increased exposure to traumatic discipline and juvenile court involvement, and ultimately face a higher risk of dropping out and being unable to thrive in their community.
- In their 2011 Report, the Iowa Area Education Agency Taskforce highlighted the fact that small districts often do not have the resources to hire highly specialized professionals to serve the individual needs of students with disabilities. The pass-through money this legislation proposes to transfer to school districts is insufficient to hire these specialists or purchase equipment, curriculum, and training resources. This is especially true for small and rural school districts who cannot financially compete with larger districts.
- The deadlines this legislation proposes for schools to opt into AEA services is a major barrier for students with disabilities. A school may not be aware of newly identified student(s) with disability in their district until well past the deadline. This would prevent the school from requesting assistance from the AEAs. Alternatively, students may move into their district mid-year who need highly specialized support for which the school has not contracted with the AEA to provide. Or a student's disability may significantly change, and they may require additional resources.
 - In these cases, the school would not be able to go to the AEA and request help. Instead, they would be limited to trying to provide the

- supports and services themselves or contracting with a third party. The school may not have the ability to provide the service themselves, and a private provider is likely to be expensive and have a long wait list.
- Such financial constraints and delays violate the IDEA and fail to serve students with disabilities, resulting in worse student educational and life outcomes.

III. Loss of expertise and training on special education

- AEA's are responsible for training, mentoring, and coaching a wide variety of Iowans on a range of topics:
 - Train school staff on state and federal special education laws and requirements
 - Train schools on specialized curriculum and behavioral support strategies
 - Train incoming teachers about students with disabilities and their obligations to those students
 - Train childcare centers on how to assist children with disabilities.
- Without this training teachers, schools, and childcare providers are less equipped to serve students with disabilities. This results in more students with disabilities not having their needs met, not having access to individualized education and services, and ultimately being forced out of school or childcare. When students are segregated in this way, all students, whether they have a disability or not, suffer emotionally, mentally, academically, and socially. Families of students with disabilities struggle to maintain reliable employment and meet their child's needs.
- AEA's have built relationships with community partners that they leverage to connect students and schools to important resources and opportunities. They also serve as a voice for students with disabilities out in the community. Without this important connection, students with disabilities have fewer connections to their community through employment, post-secondary education, integration, and other resources.
 - This legislation eliminates much of the AEA's role in the community and severs this important line between the community and students with disability without any plan of how the Department of Education will step in to support students.

DRI strongly opposes this legislation. DRI urges legislators to thoughtfully consider the testimony submitted today, the concerns previously shared by parents and stakeholders, to take time fully understand the AEA system.

DRI urges legislators to develop a Legislative Task Force to fully study the current functions of the AEA system, and how the AEA system could be improved for students with disabilities. Rushing a change in the AEA system will harm the educational opportunities for students with disabilities and will create new barriers for students with disabilities, resulting in lower achievement test scores, lower graduation rates, and higher high school dropout rates.

DRI welcomes the opportunity to discuss our concerns more in-depth with any member of the Iowa Legislature. Thank you in advance for your thoughtful deliberation of our testimony in opposition of HSB 542/SSB 3073.