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**Testimony on SB 1490**  
**Senate Education Committee**  
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In these cases when parents and schools are unable to agree about what is best for a student receiving special education services, the Individuals with Disabilities Education Act (IDEA) provides the right the due process hearing system to resolve disagreements. Even when alternatives to due process are available, there are situations that cannot be resolved without a due process hearing. Therefore, something must be done to address our current system. The current system is biased against parents and parents rarely win on the substantive issues. Parents see schools spending large sums of money on legal fees in due process hearings, while children are not receiving needed services. Because of the inequity in the system, when there is a dispute, parents tend to give up, take their child out of school or go through a due process hearing unsuccessfully.

Currently, the Texas Education Agency (TEA) contracts with private attorneys to serve as Hearing Officers. These contract Hearing Officers may perform contract work for school districts, creating the appearance of a conflict of interest. This would not occur if the hearings were conducted by an independent agency. Because of the inequity in the system parents rarely win on the substantive issues. As a result, many parents distrust the process and refuse to participate in it. During the 2006-2007 school year, 329 requests for a hearing were filed, but only 50 decisions were issued. This demonstrates the lack of faith parents have in the current system.

SB 1490 requires the Texas Education Agency (TEA) to enter into an interagency contract with the State Office of Administrative Hearings (SOAH) to conduct special education due process hearings. In 2005 the Texas Sunset Commission made this e recommendation to move the TEA due process system to SOAH. Currently, 13 states utilize a SOAH type agency to conduct their due process hearings.

SOAH currently conducts hearing for more than 55 state agencies. In 2005, SOAH estimated that it could offer the same services at a slightly lower cost than the current contact system.

The current system is not working for students with disabilities and their families. The intent of transferring hearings to SOAH is not to create a system that favors parents, but one that is more neutral. Further, it is becoming increasingly difficult for parents to find or afford attorneys to represent them in special education cases. The system, operated by TEA, has done little to make the system easier to use by pro se parents. There are some individual hearing officers who have spent time assisting parents, but

this is nothing they are required to do. SOAH, has staff available to speak with and assist pro se litigants.

Moving the hearing process to SOAH will not “fix” the due process system. Unfortunately, as long as schools can refuse to mediate disputes, be represented by an attorney when parents are not, and spend money on legal fees and appeals, the playing field will not be level. However, such a move would serve to break up a system that is broken. This option was recommended by the Sunset Commission in 2005, and we believe that it is still a good idea.

Thank you for allowing me to testify.

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