

**Senate Education Committee
Testimony by Jana Lilly,
Llano ISD
February 22, 2005**

Good morning, Madame Chair, members of the committee:

My name is ^{Janna} Jana Lilly, and I serve as a special ed director at the Llano ISD. Thank you for the opportunity to testify. I am here on behalf of the Texas Council of Administrators of Special Education (TCASE) and the Texas Association of School Boards (TASB) to speak ON SB 124.

- Texas rules currently require an ARD Committee in Texas to consider seven specific components of the autistic student's IEP.
 - These are set forth in a document used by Texas ARD Committees that is known as the autism supplement.
 - SB 124 would require a stakeholder meeting to consider adding more considerations to the autism supplement.
 - Any changes to the autism supplement at this time may be premature for reasons that I will explain.
 - Additionally, for reasons that I will also explain, if a stakeholder meeting is held to consider adding to the autism supplement, it would be an inefficient use of resources to prohibit those individuals to also discuss the current requirements of the rule.
- (1) **The autism supplement, even without additions, requires the Texas ARD Committee to consider more for the autistic student's IEP that federal law requires.** Federal law may actually even *prohibit* the addition of required provisions to a student's IEP that are not specifically required by federal law and the components of 89.1055(e) even without any additions are not required by federal law. IDEA has recently been reauthorized and we are waiting for the federal regulations to assist the states in analyzing various provisions in the law that have been added to IDEA. In the Section 614 of the reauthorized IDEA, there is language that indicates that the student's IEP may not contain information over and above what is set forth in federal law.
 - (2) **Paperwork is increased by the autism supplement.** The supplement requires ARD Committees to complete additional paperwork that results in added time for all involved. Ironically, the information required to be considered by the ARD Committee and documented in the autism supplement has usually already been considered and documented elsewhere in the ARD paperwork.
 - (3) **Federal law requires individualization based on student need.** The autism supplement is menu-like and flies in the face of individualization. Some autistic students will benefit from an ABA approach or an inclusive setting. However, to

say that ALL autistic students should be educated in this manner is contradictory to an individualized approach.

- (4) **Considerations such as methodology and setting ultimately belong to the ARD Committee.** There exist numerous methods to educating the autistic student just as there are numerous instructional settings available. The autism supplement is not a list of considerations that, without the autism supplement would not be provided to the student. Federal law already requires the ARD Committee to consider various types of methodologies, such as applied behavior analysis, as well as various types of instructional settings, such as an inclusive setting. Without SB 124, these considerations will still be made and ultimately, even with SB 124, the final decision lies with the ARD Committee.
- (5) **Adding the considerations required by this bill will not mean that they will now be considered or provided when before they were not.** Current state rule is a micro-management of the ARD Committee by requiring specific considerations for autistic student's education. Without it, a good ARD Committee is still going to consider all of these things, and more, in addition to the additional considerations set forth in SB 124. Likewise, regardless of how many more considerations are placed on the autism supplement, the poor decisions of a poor ARD Committee will not be rehabilitated by adding to this list.
- (6) **A stakeholder meeting will use valuable resources with little resulting change.** In light of the fact that we do not yet know whether 89.1055(e) requires more than the federal government will allow, it seems premature to begin discussions to add even more considerations to state rules. Additionally, SB 124 as written does not allow the current components of the autism supplement to be addressed by stakeholders. This will result in a time-consuming and costly gathering of the stakeholders that will not allow any meaningful changes to the current rule.
- (7) **The rule as it is currently written is confusing for all parties.** The autism supplement must document that the ARD Committee considered whether certain things are needed by the student. However, the rule does not define or clarify how "need" will be determined. For example, the ARD Committee must consider whether a student needs "in-home training." There has been much debate regarding the type of assessment needed to determine whether "in-home training" is needed. The in-home training assessment is an assessment that each district creates on its own in order to comply with state rule. No one knows what an in-home assessment looks like or who is qualified to perform such an assessment and this creates confusion and controversy for everyone involved. If stakeholders are going to spend time and money gathering to discuss 89.1055(e), they should be allowed to consider and make any revisions to the rules as they currently read.

- (8) **As written, SB 124 only allows for considerations to be added to the current rule.** Language should be added in provision (b) to allow stakeholders to clarify language that already exists in the rule and to consider whether any unnecessary considerations should be deleted.
- (9) **The autism supplement is considered procedural in nature by Texas due process hearing officers.** An ARD Committee's failure to use an autism supplement, or essentially to document its compliance with 89.1055(e), is considered a procedural violation. The ultimate question asked by the hearing officer is whether the student received a free appropriate public education (FAPE).

I would be happy to answer any questions. Thank you.

Jana Lilly

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