



General Assembly

Amendment

January Session, 2005

LCO No. 6208

SB0133506208SD0

Offered by:

SEN. HANDLEY, 4th Dist.

SEN. GAFFEY, 13th Dist.

To: Subst. Senate Bill No. 1335

File No. 487

Cal. No. 357

**"AN ACT CONCERNING PROGRAMS AND SERVICES OF THE
DEPARTMENT OF SOCIAL SERVICES."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (a) of section 10-76d of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective from*
5 *passage*):

6 (a) (1) In accordance with the regulations and procedures
7 established by the Commissioner of Education and approved by the
8 State Board of Education, each local or regional board of education
9 shall provide the professional services requisite to identification of
10 children requiring special education, identify each such child within its
11 jurisdiction, determine the eligibility of such children for special
12 education pursuant to sections 10-76a to 10-76h, inclusive, prescribe
13 suitable educational programs for eligible children, maintain a record
14 thereof and make such reports as the commissioner may require.

15 (2) Any local or regional board of education, through the planning
16 and placement team established in accordance with regulations
17 adopted by the State Board of Education under this section, may
18 determine a child's Medicaid enrollment status. In determining
19 Medicaid enrollment status, the planning and placement team shall:
20 (A) Inquire of the parents or guardians of each such child whether the
21 child is enrolled in or may be eligible for Medicaid; and (B) if the child
22 may be eligible for Medicaid, request that the parent or guardian of the
23 child apply for Medicaid. For the purpose of determining Medicaid
24 rates for Medicaid eligible special education and related services based
25 on a representative cost sampling method, the board of education shall
26 make available documentation of the provision and costs of Medicaid
27 eligible special education and related services for any students
28 receiving such services, regardless of an individual student's Medicaid
29 enrollment status, to the Commissioner of Social Services or to the
30 commissioner's authorized agent at such time and in such manner as
31 prescribed. For the purpose of determining Medicaid rates for
32 Medicaid eligible special education and related services based on an
33 actual cost method, the local or regional board of education shall
34 submit documentation of the costs and utilization of Medicaid eligible
35 special education and related services for all students receiving such
36 services to the Commissioner of Social Services or to the
37 commissioner's authorized agent at such time and in such manner as
38 prescribed. The commissioner or such agent may use information
39 received from local or regional boards of education for the purposes of
40 (i) ascertaining students' Medicaid eligibility status, (ii) submitting
41 Medicaid claims, (iii) complying with state and federal audit
42 requirements and (iv) determining Medicaid rates for Medicaid
43 eligible special education and related services. No child shall be denied
44 special education and related services in the event the parent or
45 guardian refuses to apply for Medicaid.

46 (3) Beginning with the fiscal year ending June 30, 2004, the
47 Commissioner of Social Services shall make grant payments to local or
48 regional boards of education in amounts representing fifty per cent of

49 the federal portion of Medicaid claims processed for Medicaid eligible
50 special education and related services provided to Medicaid eligible
51 students in the school district. Such grant payments shall be made on
52 at least a quarterly basis and may represent estimates of amounts due
53 to local or regional boards of education. Any grant payments made on
54 an estimated basis, including payments made by the Department of
55 Education for the fiscal years prior to the fiscal year ending June 30,
56 2000, shall be subsequently reconciled to grant amounts due based
57 upon filed and accepted Medicaid claims and Medicaid rates. If, upon
58 review, it is determined that a grant payment or portion of a grant
59 payment was made for ineligible or disallowed Medicaid claims, the
60 local or regional board of education shall reimburse the Department of
61 Social Services for any grant payment amount received based upon
62 ineligible or disallowed Medicaid claims.

63 (4) Pursuant to federal law, the Commissioner of Social Services, as
64 the state's Medicaid agent, shall determine rates for Medicaid eligible
65 special education and related services pursuant to subdivision (2) of
66 this subsection. The Commissioner of Social Services may request and
67 the Commissioner of Education and towns and regional school
68 districts shall provide information as may be necessary to set such
69 rates.

70 (5) Based on school district special education and related services
71 expenditures, the state's Medicaid agent shall report and certify to the
72 federal Medicaid authority the state match required by federal law to
73 obtain Medicaid reimbursement of eligible special education and
74 related services costs.

75 (6) Payments received pursuant to this section shall be paid to the
76 local or regional board of education which has incurred such costs in
77 addition to the funds appropriated by the town to such board for the
78 current fiscal year.

79 (7) The planning and placement team shall, in accordance with the
80 provisions of the Individuals With Disabilities Education Act, 20 USC

81 1400, et seq., as amended from time to time, develop and update
82 annually a statement of transition service needs for each child
83 requiring special education.

84 (8) Each local and regional board of education shall notify the
85 parent or guardian of a child who requires or who may require special
86 education, a pupil if such pupil is an emancipated minor or eighteen
87 years of age or older who requires or who may require special
88 education or a surrogate parent appointed pursuant to section 10-94g,
89 in writing, at least five school days before such board proposes to, or
90 refuses to, initiate or change the child's or pupil's identification,
91 evaluation or educational placement or the provision of a free
92 appropriate public education to the child or pupil. Such parent,
93 guardian, pupil or surrogate parent shall be given at least five school
94 days' prior notice of any planning and placement team meeting
95 conducted for such child or pupil and shall have the right to be present
96 at and participate in and to have advisors of such person's own
97 choosing and at such person's own expense to be present at and to
98 participate in all portions of such meeting at which an educational
99 program for such child or pupil is developed, reviewed or revised.
100 Immediately upon the formal identification of any child as a child
101 requiring special education and at each planning and placement team
102 meeting for such child, the responsible local or regional board of
103 education shall inform the parent or guardian of such child or
104 surrogate parent or, in the case of a pupil who is an emancipated
105 minor or eighteen years of age or older, the pupil of the laws relating
106 to special education and the rights of such parent, guardian, surrogate
107 parent or pupil under such laws and the regulations adopted by the
108 State Board of Education relating to special education. If such parent,
109 guardian, surrogate parent or pupil does not attend a planning and
110 placement team meeting, the responsible local or regional board of
111 education shall mail such information to such person. Each board shall
112 have in effect at the beginning of each school year an educational
113 program for each child who has been identified as eligible for special
114 education.

115 (9) For purposes of Medicaid reimbursement, when recommended
116 by the planning and placement team and specified on the
117 individualized education program, a service eligible for
118 reimbursement under the Medicaid program shall be deemed to be
119 authorized by a practitioner of the healing arts under 42 CFR 440.130,
120 provided such service is recommended by an appropriately licensed or
121 certified individual and is within the individual's scope of practice.
122 Diagnostic and evaluation services eligible for reimbursement under
123 the Medicaid program, recommended by the planning and placement
124 team and specified on the individualized education program shall also
125 be deemed to be authorized by a practitioner of the healing arts under
126 42 CFR 440.130 provided such services are recommended by an
127 appropriately licensed or certified individual and are within the
128 individual's scope of practice.

129 [(9)] (10) The Commissioner of Social Services shall implement the
130 policies and procedures necessary for the purposes of this subsection
131 while in the process of adopting such policies and procedures in
132 regulation form, provided notice of intent to adopt the regulations is
133 published in the Connecticut Law Journal within twenty days of
134 implementing the policies and procedures. Such policies and
135 procedures shall be valid until the time final regulations are effective."