



House of Representatives

File No. 886

General Assembly

January Session, 2011

(Reprint of File No. 391)

Substitute House Bill No. 6501
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 2, 2011

AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES AND THE MEMBERSHIP OF THE ADVISORY COUNCIL FOR SPECIAL EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 10-76ff of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2011*):

4 (a) Each local and regional board of education shall, without delay,
5 follow the procedures outlined in this section and in accordance with
6 applicable federal law and regulations in determining if a child
7 requires special education and related services, as defined in section
8 10-76a. (1) In conducting an evaluation of the child, the local or
9 regional board of education shall: (A) Use a variety of assessment tools
10 and strategies to gather relevant functional, developmental and
11 academic information, including information provided by the child's
12 parent or guardian, that may assist in determining (i) whether the

13 child is a child, (I) who requires special education and related services
14 pursuant to subparagraphs (A) and (C) of subdivision (5) of section 10-
15 76a, (II) whose disability has an adverse effect on his educational
16 performance, and (III) who, by reason of such adverse effect requires
17 special education and related services, and (ii) the content of the child's
18 individualized education program, including information related to
19 enabling the child to be involved in and progress in the general
20 curriculum or, for preschool children, to participate in appropriate
21 activities; (B) not use any single measure or assessment as the sole
22 criterion for determining whether a child is a child with a disability or
23 determining an appropriate educational program for the child; and (C)
24 use technically sound instruments that may assess the relative
25 contribution of cognitive and behavioral factors, in addition to physical
26 or developmental factors. (2) Each local and regional board of
27 education shall ensure that: (A) Assessments and other evaluation
28 materials used to assess the child are (i) selected and administered so
29 as not to be discriminatory on a racial or cultural basis, and (ii)
30 provided and administered in the language and form most likely to
31 yield accurate information on what the child knows and can do
32 academically, developmentally and functionally, unless it is not
33 feasible to so provide or administer; (B) assessments and other
34 evaluation materials used to assess a child (i) are used for purposes for
35 which the assessments or measures are valid and reliable, (ii) are
36 administered by trained and knowledgeable personnel, and (iii) are
37 administered in accordance with any instructions provided by the
38 producer of such tests; (C) the child is assessed in all areas of suspected
39 disability; (D) assessment tools and strategies that provide relevant
40 information that directly assists persons in determining the
41 educational needs of the child are provided; and (E) assessments of
42 children with disabilities who transfer from one school district to
43 another school district in the same academic year are coordinated with
44 such children's prior and subsequent schools, as necessary and as
45 expeditiously as possible, to ensure prompt completion of full
46 evaluations. (3) In accordance with section 10-76d and applicable
47 federal law and regulations, upon completion of administration of

48 assessments and other evaluation measures, the determination of
49 whether the child is a child requiring special education and related
50 services shall be made by a team consisting of qualified professionals
51 and the parent or guardian of the child and a copy of the evaluation
52 report and the documentation for such determination shall be given to
53 the parent or guardian of the child. (4) The local or regional board of
54 education shall not determine that a child requires special education
55 and related services if the dominant factor for determining eligibility is
56 (A) a lack of instruction in reading, including the essential components
57 of reading instruction, as defined in Section 1208(3) of the Elementary
58 and Secondary Education Act of 1965, or mathematics or limited
59 English proficiency, or (B) evidence that the child's behavior violates
60 the school's disciplinary policies or evidence that is derived from the
61 contents of discipline records.

62 Sec. 2. Subsection (a) of section 10-76i of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective from*
64 *passage*):

65 (a) There shall be an Advisory Council for Special Education which
66 shall advise the General Assembly, State Board of Education and the
67 Commissioner of Education, and which shall engage in such other
68 activities as described in this section. On and after July 1, 2010, the
69 advisory council shall consist of the following members: (1) Nine
70 appointed by the Commissioner of Education, (A) six of whom shall be
71 (i) the parents of children with disabilities, provided such children are
72 under the age of twenty-seven, or (ii) individuals with disabilities, (B)
73 one of whom shall be an official of the Department of Education, (C)
74 one of whom shall be a state or local official responsible for carrying
75 out activities under Subtitle B of Title VII of the McKinney-Vento
76 Homeless Assistance Act, 42 USC 11431 et seq., as amended from time
77 to time, and (D) one of whom shall be a representative of an institution
78 of higher education in the state that prepares teacher and related
79 services personnel; (2) one appointed by the Commissioner of
80 Developmental Services who shall be an official of the department; (3)
81 one appointed by the Commissioner of Children and Families who

82 shall be an official of the department; (4) one appointed by the
83 Commissioner of Correction who shall be an official of the department;
84 (5) a representative from the Office of Protection and Advocacy for
85 Persons with Disabilities; (6) a representative from the Parent
86 Leadership Training Institute within the Commission on Children; (7)
87 a representative from the Bureau of Rehabilitation Services within the
88 Department of Social Services; [(5)] (8) five who are members of the
89 General Assembly who shall serve as nonvoting members of the
90 advisory council, one appointed by the speaker of the House of
91 Representatives, one appointed by the majority leader of the House of
92 Representatives, one appointed by the minority leader of the House of
93 Representatives, one appointed by the president pro tempore of the
94 Senate and one appointed by the minority leader of the Senate; [(6)] (9)
95 one appointed by the president pro tempore of the Senate who shall be
96 a member of the Connecticut Speech-Language-Hearing Association;
97 [(7)] (10) one appointed by the majority leader of the Senate who shall
98 be a public school teacher; [(8)] (11) one appointed by the minority
99 leader of the Senate who shall be a representative of a vocational,
100 community or business organization concerned with the provision of
101 transitional services to children with disabilities; [(9)] (12) one
102 appointed by the speaker of the House of Representatives who shall be
103 a member of the Connecticut Council of Special Education
104 Administrators and who is a local education official; [(10)] (13) one
105 appointed by the majority leader of the House of Representatives who
106 shall be a representative of charter schools; [(11)] (14) one appointed by
107 the minority leader of the House of Representatives who shall be a
108 member of the Connecticut Association of Private Special Education
109 Facilities; [(12)] (15) one appointed by the Chief Court Administrator of
110 the Judicial Department who shall be an official of such department
111 responsible for the provision of services to adjudicated children and
112 youth; [(13)] (16) seven appointed by the Governor, all of whom shall
113 be (A) the parents of children with disabilities, provided such children
114 are under the age of twenty-seven, or (B) individuals with disabilities;
115 and [(14)] (17) such other members as required by the Individuals with
116 Disabilities Education Act, 20 USC 1400 et seq., as amended from time

117 to time, appointed by the Commissioner of Education. Appointments
118 made pursuant to the provisions of this section shall be representative
119 of the ethnic and racial diversity of, and the types of disabilities found
120 in, the state population. The terms of the members of the council
121 serving on June 8, 2010, shall expire on June 30, 2010. Appointments
122 shall be made to the council by July 1, 2010. Members shall serve two-
123 year terms, except that members appointed pursuant to subdivisions
124 (1) to (3), inclusive, of this subsection whose terms commenced July 1,
125 2010, shall serve three-year terms and the successors to such members
126 appointed pursuant to subdivisions (1) to (3), inclusive, of this
127 subsection shall serve two-year terms.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	10-76ff(a)
Sec. 2	<i>from passage</i>	10-76i(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which reinforces federal regulations and restates current requirements regarding when districts make a decision about whether to evaluate a child to determine if they are eligible for special education services, is not anticipated to result in a fiscal impact.

House "A", which added additional members to the Advisory Council for Special Education, is not anticipated to result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6501 (as amended by House "A")******AN ACT CONCERNING DELAYS IN THE EVALUATION AND DETERMINATION PROCESS FOR STUDENTS SUSPECTED OF REQUIRING SPECIAL EDUCATION SERVICES.*****SUMMARY:**

This bill requires school districts to evaluate children without delay and according to state and federal special education laws and regulations to determine if they are eligible for special education and related services. Federal special education regulations require school districts to promptly request parental consent to evaluate a child and, once the consent is granted, complete the evaluation within 60 days.

The bill also expands the membership of the Advisory Council for Special Education by adding one representative each from the: (1) Office of Protection and Advocacy for Persons with Disabilities; (2) Commission on Children's Parent Leadership Training Institute; and (3) Department of Social Services' Bureau of Rehabilitation Services (this agency recently has been renamed the Bureau of Rehabilitative Services). It does not specify when the new appointments must be made, but the existing law, unchanged by the bill, requires all appointments to be made by July 1, 2010. This appears to be unworkable.

*House Amendment "A" expands the membership of the special education advisory council by three members.

EFFECTIVE DATE: July 1, 2011, except the provision regarding the special education advisory council expansion is upon passage.

BACKGROUND

Federal Regulations

Federal Individuals with Disabilities Education Act regulations set requirements regarding evaluation of children who may need special education services.

Parental consent regulations require that the school district “must promptly request parental consent to evaluate the child to determine if the child needs special education and related services. . . .” (34 CFR § 300.309(c)). The district must also adhere to the 60-day deadline to conduct the evaluations (34 CFR § 300.301(c)). There are limited exceptions to the deadline, for example if the parent does not produce the child for evaluation or the child is enrolled in another school district during the evaluation period (34 CFR § 300.301(d)).

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 28 Nay 0 (03/23/2011)