



# Senate

General Assembly

**File No. 300**

January Session, 2011

Substitute Senate Bill No. 1038

*Senate, March 31, 2011*

The Committee on Education reported through SEN. STILLMAN of the 20th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING INDIVIDUALIZED EDUCATION PROGRAMS  
AND OTHER ISSUES RELATING TO SPECIAL EDUCATION.***

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

1 Section 1. Subdivision (8) of subsection (a) of section 10-76d of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective July 1, 2011*):

4 (8) (A) Each local and regional board of education responsible for  
5 providing special education and related services to a child or pupil  
6 shall notify the parent or guardian of a child who requires or who may  
7 require special education, a pupil if such pupil is an emancipated  
8 minor or eighteen years of age or older who requires or who may  
9 require special education or a surrogate parent appointed pursuant to  
10 section 10-94g, in writing, at least five school days before such board  
11 proposes to, or refuses to, initiate or change the child's or pupil's  
12 identification, evaluation or educational placement or the provision of  
13 a free appropriate public education to the child or pupil.

14        (B) The responsible local and regional board of education shall offer  
15 such parent, guardian, pupil or surrogate parent an opportunity to  
16 meet with a member of the planning and placement team designated  
17 by such board prior to the post-assessment planning and placement  
18 team meeting at which the assessments and evaluations of the child or  
19 pupil who requires or may require special education is presented to  
20 such parent, guardian, pupil or surrogate parent for the first time. Such  
21 meeting shall be for the sole purpose of discussing the planning and  
22 placement team process and any concerns such parent, guardian, pupil  
23 or surrogate parent has regarding the child or pupil who requires or  
24 may require special education.

25        (C) Such parent, guardian, pupil or surrogate parent shall be given  
26 at least five school days' prior notice of any planning and placement  
27 team meeting conducted for such child or pupil and shall have the  
28 right to be present at and participate in and to have advisors of such  
29 person's own choosing and at such person's own expense to be present  
30 at and to participate in all portions of such meeting at which an  
31 educational program for such child or pupil is developed, reviewed or  
32 revised.

33        (D) Immediately upon the formal identification of any child as a  
34 child requiring special education and at each planning and placement  
35 team meeting for such child, the responsible local or regional board of  
36 education shall inform the parent or guardian of such child or  
37 surrogate parent or, in the case of a pupil who is an emancipated  
38 minor or eighteen years of age or older, the pupil of (i) the laws  
39 relating to special education, [and] (ii) the rights of such parent,  
40 guardian, surrogate parent or pupil under such laws and the  
41 regulations adopted by the State Board of Education relating to special  
42 education, and (iii) any relevant information and resources relating to  
43 individualized education programs created by the Department of  
44 Education. If such parent, guardian, surrogate parent or pupil does not  
45 attend a planning and placement team meeting, the responsible local  
46 or regional board of education shall mail such information to such  
47 person.

48        (E) Each local and regional board of education shall have in effect at  
49 the beginning of each school year an educational program for each  
50 child or pupil who has been identified as eligible for special education.

51        ~~[(B)]~~ (F) At each initial planning and placement team meeting for a  
52 child or pupil, the responsible local or regional board of education  
53 shall inform the parent, guardian, surrogate parent or pupil of the laws  
54 relating to physical restraint and seclusion pursuant to chapter 814e  
55 and the rights of such parent, guardian, surrogate parent or pupil  
56 under such laws and the regulations adopted by the State Board of  
57 Education relating to physical restraint and seclusion.

58        (G) The responsible local and regional board of education shall  
59 document in such child's or pupil's record that such board provided  
60 the assessments and evaluations used in the determination of  
61 eligibility for special education for such child or pupil to the parent,  
62 guardian, surrogate parent or pupil at least three school days before  
63 the planning and placement team meeting for such child or pupil at  
64 which such assessments and evaluations will be discussed for the first  
65 time. The parent, guardian, surrogate parent or pupil may waive the  
66 requirement that such parent, guardian, surrogate parent or pupil  
67 receive such assessments and evaluations at least three school days  
68 before such planning and placement team meeting by delivering a  
69 signed, written waiver to the responsible local or regional board of  
70 education.

71        Sec. 2. Section 10-145a of the general statutes is repealed and the  
72 following is substituted in lieu thereof (*Effective July 1, 2011*):

73        (a) The State Board of Education may, in accordance with section 10-  
74 19 and such regulations and qualifications as it prescribes, issue  
75 certificates of qualification to teach, to administer, to supervise or to  
76 serve in other positions requiring certification pursuant to regulations  
77 adopted by the State Board of Education in any public school in the  
78 state and may revoke the same. Any such regulations shall provide  
79 that the qualifications to maintain any administrator, supervisor or  
80 special service certificate shall incorporate the continuing education

81 provisions of subsection (i) of section 10-145b, as amended by this act.  
82 The certificates of qualification issued under this section shall be  
83 accepted by boards of education in lieu of any other certificate,  
84 provided additional qualifications may be required by a board of  
85 education, in which case the state certificate shall be accepted for such  
86 subjects as it includes.

87 (b) Any candidate in a program of teacher preparation leading to  
88 professional certification shall be encouraged to successfully complete  
89 an intergroup relations component of such a program which shall be  
90 developed with the participation of both sexes, and persons of various  
91 ethnic, cultural and economic backgrounds. Such intergroup relations  
92 program shall have the following objectives: (1) The imparting of an  
93 appreciation of the contributions to American civilization of the  
94 various ethnic, cultural and economic groups composing American  
95 society and an understanding of the life styles of such groups; (2) the  
96 counteracting of biases, discrimination and prejudices; and (3) the  
97 assurance of respect for human diversity and personal rights. The State  
98 Board of Education, the Board of Governors of Higher Education, the  
99 Commission on Human Rights and Opportunities and the Permanent  
100 Commission on the Status of Women shall establish a joint committee  
101 composed of members of the four agencies, which shall develop and  
102 implement such programs in intergroup relations.

103 (c) Any candidate in a program of teacher preparation leading to  
104 professional certification shall be encouraged to complete a (1) health  
105 component of such a program, which includes, but need not be limited  
106 to, human growth and development, nutrition, first aid, disease  
107 prevention and community and consumer health, and (2) mental  
108 health component of such a program, which includes, but need not be  
109 limited to, youth suicide, child abuse and alcohol and drug abuse.

110 (d) Any candidate in a program of teacher preparation leading to  
111 professional certification shall be encouraged to complete a school  
112 violence, bullying and suicide prevention and conflict resolution  
113 component of such a program.

114 (e) On and after July 1, 1998, any candidate in a program of teacher  
115 preparation leading to professional certification shall complete a  
116 computer and other information technology skills component of such  
117 program, as applied to student learning and classroom instruction,  
118 communications and data management.

119 (f) On and after July 1, 2006, any program of teacher preparation  
120 leading to professional certification shall include, as part of the  
121 curriculum, instruction in literacy skills and processes that reflects  
122 current research and best practices in the field of literacy training. Such  
123 instruction shall be incorporated into requirements of student major  
124 and concentration.

125 (g) On and after July 1, 2006, any program of teacher preparation  
126 leading to professional certification shall include, as part of the  
127 curriculum, instruction in the concepts of second language learning  
128 and second language acquisition and processes that reflects current  
129 research and best practices in the field of second language learning and  
130 second language acquisition. Such instruction shall be incorporated  
131 into requirements of student major and concentration.

132 (h) On and after July 1, 2011, any program of teacher preparation  
133 leading to professional certification shall include, as part of the  
134 curriculum, instruction in the implementation of student  
135 individualized education programs as it relates to the provision of  
136 special education and related services.

137 [(h)] (i) On and after July 1, 2012, any candidate entering a program  
138 of teacher preparation leading to professional certification shall be  
139 required to complete training in competency areas contained in the  
140 professional teaching standards established by the State Board of  
141 Education, including, but not limited to, development and  
142 characteristics of learners, evidence-based and standards-based  
143 instruction, evidence-based classroom and behavior management, and  
144 assessment and professional behaviors and responsibilities.

145 Sec. 3. Subsection (a) of section 10-220a of the general statutes is

146 repealed and the follow is substituted in lieu thereof (*Effective July 1,*  
147 *2011*):

148 (a) Each local or regional board of education shall provide an in-  
149 service training program for its teachers, administrators and pupil  
150 personnel who hold the initial educator, provisional educator or  
151 professional educator certificate. Such program shall provide such  
152 teachers, administrators and pupil personnel with information on (1)  
153 the nature and the relationship of drugs, as defined in subdivision (17)  
154 of section 21a-240, and alcohol to health and personality development,  
155 and procedures for discouraging their abuse, (2) health and mental  
156 health risk reduction education which includes, but need not be  
157 limited to, the prevention of risk-taking behavior by children and the  
158 relationship of such behavior to substance abuse, pregnancy, sexually  
159 transmitted diseases, including HIV-infection and AIDS, as defined in  
160 section 19a-581, violence, teen dating violence, domestic violence, child  
161 abuse and youth suicide, (3) the growth and development of  
162 exceptional children, including handicapped and gifted and talented  
163 children and children who may require special education, including,  
164 but not limited to, children with attention-deficit hyperactivity  
165 disorder or learning disabilities, and methods for identifying, planning  
166 for and working effectively with special needs children in a regular  
167 classroom, including, but not limited to, implementation of student  
168 individualized education programs, (4) school violence prevention,  
169 conflict resolution and prevention of bullying, as defined in subsection  
170 (a) of section 10-222d, except that those boards of education that  
171 implement an evidence-based model approach, consistent with  
172 subsection (d) of section 10-145a, as amended by this act, subsection (a)  
173 of section 10-220a, as amended by this act, sections 10-222d, 10-222g  
174 and 10-222h, subsection (g) of section 10-233c and sections 1 and 3 of  
175 public act 08-160, shall not be required to provide in-service training  
176 on prevention of bullying, (5) cardiopulmonary resuscitation and other  
177 emergency life saving procedures, (6) computer and other information  
178 technology as applied to student learning and classroom instruction,  
179 communications and data management, (7) the teaching of the  
180 language arts, reading and reading readiness for teachers in grades

181 kindergarten to three, inclusive, and (8) second language acquisition in  
182 districts required to provide a program of bilingual education  
183 pursuant to section 10-17f. Each local and regional board of education  
184 may allow any paraprofessional or noncertified employee to  
185 participate, on a voluntary basis, in any in-service training program  
186 provided pursuant to this section. The State Board of Education,  
187 within available appropriations and utilizing available materials, shall  
188 assist and encourage local and regional boards of education to include:  
189 (A) Holocaust education and awareness; (B) the historical events  
190 surrounding the Great Famine in Ireland; (C) African-American  
191 history; (D) Puerto Rican history; (E) Native American history; (F)  
192 personal financial management; (G) domestic violence and teen dating  
193 violence; and (H) topics approved by the state board upon the request  
194 of local or regional boards of education as part of in-service training  
195 programs pursuant to this subsection.

196 Sec. 4. Subdivision (1) of subsection (i) of section 10-145b of the  
197 general statutes is repealed and the following is substituted in lieu  
198 thereof (*Effective July 1, 2011*):

199 (i) (1) For certified employees of local and regional boards of  
200 education, except as provided in this subdivision, each professional  
201 educator certificate shall be valid for five years and continued every  
202 five years thereafter upon the successful completion of professional  
203 development activities which shall consist of not less than ninety hours  
204 of continuing education, as determined by the local or regional board  
205 of education in accordance with this section, or documented  
206 completion of a national board certification assessment in the  
207 appropriate endorsement area, during each successive five-year  
208 period. (A) Such continuing education completed by certified  
209 employees with an early childhood nursery through grade three or an  
210 elementary endorsement who hold a position requiring such an  
211 endorsement shall include at least fifteen hours of training in the  
212 teaching of reading and reading readiness and assessment of reading  
213 performance, including methods of teaching language skills necessary  
214 for reading, reading comprehension skills, phonics and the structure of

215 the English language during each five-year period. (B) Such continuing  
216 education requirement completed by certified employees with  
217 elementary, middle grades or secondary academic endorsements who  
218 hold a position requiring such an endorsement shall include at least  
219 fifteen hours of training in the use of computers in the classroom  
220 during each five-year period unless such employees are able to  
221 demonstrate technology competency, in a manner determined by their  
222 local or regional board of education, based on state-wide standards for  
223 teacher competency in the use of technology for instructional purposes  
224 adopted pursuant to section 4d-85. (C) Such continuing education  
225 completed by (i) the superintendent of schools, and (ii) employees  
226 employed in positions requiring an intermediate administrator or  
227 supervisory certificate, or the equivalent thereof, and whose  
228 administrative or supervisory duties equal at least fifty per cent of  
229 their assigned time, shall include at least fifteen hours of training in the  
230 evaluation of teachers pursuant to section 10-151b during each five-  
231 year period. (D) In the case of certified employees with a bilingual  
232 education endorsement who hold positions requiring such an  
233 endorsement (i) in an elementary school and who do not hold an  
234 endorsement in elementary education, such continuing education  
235 taken on or after July 1, 1999, shall only count toward the ninety-hour  
236 requirement if it is in language arts, reading and mathematics, and (ii)  
237 in a middle or secondary school and who do not hold an endorsement  
238 in the subject area they teach, such continuing education taken on or  
239 after July 1, 1999, shall only count toward the ninety-hour requirement  
240 if it is in such subject area or areas. (E) Such continuing education  
241 completed by certified employees with an endorsement in special  
242 education who hold a position requiring such an endorsement shall  
243 include at least ten hours of training in the implementation of student  
244 individualized education programs and the communication of  
245 individualized education program procedures to parents or guardians  
246 of students who require special education and related services. On and  
247 after July 1, 2011, such continuing education shall be as determined by  
248 the local or regional board of education in full consideration of the  
249 provisions of this section and the priorities and needs related to

250 student outcomes as determined by the State Board of Education.  
251 During each five-year period in which a professional educator  
252 certificate is valid, a holder of such certificate who has not completed  
253 the ninety hours of continuing education required pursuant to this  
254 subdivision, and who has not been employed while holding such  
255 certificate by a local or regional board of education for all or part of the  
256 five-year period, shall, upon application, be reissued such certificate  
257 for five years minus any period of time such holder was employed  
258 while holding such certificate by a local or regional board of education,  
259 provided there shall be only one such reissuance during each five-year  
260 period in which such certificate is valid. A certified employee of a local  
261 or regional board of education who is a member of the General  
262 Assembly and who has not completed the ninety hours of continuing  
263 education required pursuant to this subdivision for continuation of a  
264 certificate, upon application, shall be reissued a professional educator  
265 certificate for a period of time equal to six months for each year the  
266 employee served in the General Assembly during the previous five  
267 years. Continuing education hours completed during the previous five  
268 years shall be applied toward such ninety-hour requirement which  
269 shall be completed during the reissuance period in order for such  
270 employee to be eligible to have a certificate continued. The cost of the  
271 professional development activities required under this subsection for  
272 certified employees of local or regional boards of education shall be  
273 shared by the state and local or regional boards of education, except  
274 for those activities identified by the State Board of Education as the  
275 responsibility of the certificate holder. Each local and regional board of  
276 education shall make available, annually, at no cost to its certified  
277 employees not fewer than eighteen hours of professional development  
278 activities for continuing education credit. Such activities may be made  
279 available by a board of education directly, through a regional  
280 educational service center or cooperative arrangement with another  
281 board of education or through arrangements with any continuing  
282 education provider approved by the State Board of Education. Local  
283 and regional boards of education shall grant continuing education  
284 credit for professional development activities which the certified

285 employees of the board of education are required to attend,  
286 professional development activities offered in accordance with the  
287 plan developed pursuant to subsection (b) of section 10-220a, or  
288 professional development activities which the board may approve for  
289 any individual certified employee. Each board of education shall  
290 determine the specific professional development activities to be made  
291 available with the advice and assistance of the teachers employed by  
292 such board, including representatives of the exclusive bargaining unit  
293 for such teachers pursuant to section 10-153b, and on and after July 1,  
294 2011, in full consideration of priorities and needs related to student  
295 outcomes as determined by the State Board of Education. The time and  
296 location for the provision of such activities shall be in accordance with  
297 either an agreement between the board of education and the exclusive  
298 bargaining unit pursuant to said section 10-153b or, in the absence of  
299 such agreement or to the extent such agreement does not provide for  
300 the time and location of all such activities, in accordance with a  
301 determination by the board of education.

302 Sec. 5. Section 10-76h of the general statutes is repealed and the  
303 following is substituted in lieu thereof (*Effective from passage*):

304 (a) (1) A parent or guardian of a child requiring special education  
305 and related services pursuant to sections 10-76a to 10-76g, inclusive, a  
306 pupil if such pupil is an emancipated minor or eighteen years of age or  
307 older requiring such services, a surrogate parent appointed pursuant  
308 to section 10-94g, or the Commissioner of Children and Families, or a  
309 designee of said commissioner, on behalf of any such child in the  
310 custody of said commissioner, may request a hearing of the local or  
311 regional board of education or the unified school district responsible  
312 for providing such services whenever such board or district proposes  
313 or refuses to initiate or change the identification, evaluation or  
314 educational placement of or the provision of a free appropriate public  
315 education to such child or pupil. Such request shall be made by  
316 sending a written request to such board or district with a copy to the  
317 Department of Education.

318 (2) The local or regional board of education or the unified school  
319 district responsible for providing special education and related  
320 services for a child or pupil requiring such services under sections 10-  
321 76a to 10-76g, inclusive, may request, upon written notice to the parent  
322 or guardian of such child, the pupil if such pupil is an emancipated  
323 minor or is eighteen years of age or older, the surrogate parent  
324 appointed pursuant to section 10-94g, or the Commissioner of  
325 Children and Families, or a designee of said commissioner, on behalf  
326 of any such child or pupil in the custody of said commissioner, a  
327 hearing concerning the decision of the planning and placement team  
328 established pursuant to section 10-76d, as amended by this act,  
329 whenever such board or district proposes or refuses to initiate or  
330 change the identification, evaluation or educational placement of or  
331 the provision of a free appropriate public education placement to such  
332 child or pupil, including, but not limited to, refusal of the parent or  
333 guardian, pupil if such pupil is an emancipated minor or is eighteen  
334 years of age or older or the surrogate parent appointed pursuant to  
335 section 10-94g, to give consent for initial evaluation or reevaluation or  
336 the withdrawal of such consent. The local or regional board of  
337 education or unified school district shall provide a copy of the request  
338 to the Department of Education. [In the event a planning and  
339 placement team proposes private placement for a child or pupil who  
340 requires or may require special education and related services and the  
341 parent, guardian, pupil if such pupil is an emancipated minor or is  
342 eighteen years of age or older or surrogate parent appointed pursuant  
343 to section 10-94g withholds or revokes consent for such placement, the  
344 local or regional board of education shall request a hearing in  
345 accordance with this section and may request mediation pursuant to  
346 subsection (f) of this section, provided such action may be taken only  
347 in the event such parent, guardian, pupil or surrogate parent has  
348 consented to the initial receipt of special education and related services  
349 and subsequent to the initial placement of the child, the local or  
350 regional board of education seeks a private placement.] For purposes  
351 of this section, a "local or regional board of education or unified school  
352 district" includes any public agency which is responsible for the

353 provision of special education and related services to children  
354 requiring special education and related services.

355 (3) The request for a hearing shall contain a statement of the specific  
356 issues in dispute.

357 (4) A party shall have two years to request a hearing from the time  
358 the board of education proposed or refused to initiate or change the  
359 identification, evaluation or educational placement or the provision of  
360 a free appropriate public education placement to such child or pupil  
361 provided, if the parent, guardian, pupil or surrogate parent is not  
362 given notice of the procedural safeguards, in accordance with  
363 regulations adopted by the State Board of Education, including notice  
364 of the limitations contained in this section, such two-year limitation  
365 shall be calculated from the time notice of the safeguards is properly  
366 given.

367 (b) Upon receipt of a written request for a special education hearing  
368 made in accordance with subsection (a) of this section, the Department  
369 of Education shall appoint an impartial hearing officer who shall  
370 schedule a hearing which shall be held and the decision written and  
371 mailed not later than forty-five days after the commencement of the  
372 hearing pursuant to the Individuals with Disabilities Education Act, 20  
373 USC 1400 et seq., as amended from time to time. An extension of the  
374 forty-five-day time limit may be granted by the hearing officer at the  
375 request of either party to the hearing.

376 (c) (1) The Department of Education shall provide training to  
377 hearing officers in administrative hearing procedures, including due  
378 process, and in the special educational needs of children. Hearing  
379 officers and members of hearing boards shall not be employees of the  
380 Department of Education or any local or regional board of education,  
381 unified school district or public agency involved in the education or  
382 care of the child. A person who is paid to serve as a hearing officer is  
383 not deemed to be an employee of the Department of Education. No  
384 person who participated in the previous identification, evaluation or  
385 educational placement of or the provision of a free appropriate public

386 education to the child or pupil nor any member of the board of  
387 education of the school district under review, shall be a hearing officer  
388 or a member of a hearing board.

389 (2) Both parties shall participate in a prehearing conference to  
390 resolve the issues in dispute, if possible and narrow the scope of the  
391 issues. Each party to the hearing shall disclose, not later than five  
392 business days prior to the date the hearing commences, (A)  
393 documentary evidence such party plans to present at the hearing and a  
394 list of witnesses such party plans to call at the hearing, and (B) all  
395 completed evaluations and recommendations based on the offering  
396 party's evaluations that the party intends to use at the hearing. Except  
397 for good cause shown, the hearing officer shall limit each party to such  
398 documentary evidence and witnesses as were properly disclosed and  
399 are relevant to the issues in dispute. A hearing officer may bar any  
400 party who fails to comply with the requirements concerning disclosure  
401 of evaluations and recommendations from introducing any  
402 undisclosed evaluation or recommendation at the hearing without the  
403 consent of the other party.

404 (3) The hearing officer or board shall hear testimony relevant to the  
405 issues in dispute offered by the party requesting the hearing and any  
406 other party directly involved, and may hear any additional testimony  
407 the hearing officer or board deems relevant. The hearing officer or  
408 board may require a complete and independent evaluation or  
409 prescription of educational programs by qualified persons, the cost of  
410 which shall be paid by the board of education or the unified school  
411 district. The hearing officer or board shall cause all formal sessions of  
412 the hearing and review to be recorded in order to provide a verbatim  
413 record.

414 (d) (1) The hearing officer or board shall have the authority (A) to  
415 confirm, modify, or reject the identification, evaluation or educational  
416 placement of or the provision of a free appropriate public education to  
417 the child or pupil, (B) to determine the appropriateness of an  
418 educational placement where the parent or guardian of a child

419 requiring special education or the pupil if such pupil is an  
420 emancipated minor or eighteen years of age or older, has placed the  
421 child or pupil in a program other than that prescribed by the planning  
422 and placement team, or (C) to prescribe alternate special educational  
423 programs for the child or pupil. If the parent or guardian of such a  
424 child who previously received special education and related services  
425 from the district enrolls the child, or the pupil who previously received  
426 special education and related services from the district enrolls in a  
427 private elementary or secondary school without the consent of or  
428 referral by the district, a hearing officer may, in accordance with the  
429 Individuals with Disabilities Education Act, 20 USC 1400 et seq., as  
430 amended from time to time, require the district to reimburse the  
431 parents or the pupil for the cost of that enrollment if the hearing officer  
432 finds that the district had not made a free appropriate public education  
433 available to the child or pupil in a timely manner prior to that  
434 enrollment. In the case where a parent or guardian, or pupil if such  
435 pupil is an emancipated minor or is eighteen years of age or older, or a  
436 surrogate parent appointed pursuant to section 10-94g, has refused  
437 consent for initial evaluation or reevaluation, the hearing officer or  
438 board may order an initial evaluation or reevaluation without the  
439 consent of such parent, guardian, pupil or surrogate parent except that  
440 if the parent, guardian, pupil or surrogate parent appeals such decision  
441 pursuant to subdivision (4) of this subsection, the child or pupil may  
442 not be evaluated or placed pending the disposition of the appeal. The  
443 hearing officer or board shall inform the parent or guardian, or the  
444 emancipated minor or pupil eighteen years of age or older, or the  
445 surrogate parent appointed pursuant to section 10-94g, or the  
446 Commissioner of Children and Families, as the case may be, and the  
447 board of education of the school district or the unified school district of  
448 the decision in writing and mail such decision not later than forty-five  
449 days after the commencement of the hearing pursuant to the  
450 Individuals with Disabilities Education Act, 20 USC 1400 et seq., as  
451 amended from time to time, except that a hearing officer or board may  
452 grant specific extensions of such forty-five-day period in order to  
453 comply with the provisions of subsection (b) of this section. The

454 hearing officer may include in the decision a comment on the conduct  
455 of the proceedings. The findings of fact, conclusions of law and  
456 decision shall be written without personally identifiable information  
457 concerning such child or pupil, so that such decisions may be available  
458 for public inspections pursuant to sections 4-167 and 4-180a.

459 (2) If the local or regional board of education or the unified school  
460 district responsible for providing special education for such child or  
461 pupil requiring special education does not take action on the findings  
462 or prescription of the hearing officer or board within fifteen days after  
463 receipt thereof, the State Board of Education shall take appropriate  
464 action to enforce the findings or prescriptions of the hearing officer or  
465 board. Such action may include application to the Superior Court for  
466 injunctive relief to compel such local or regional board or school  
467 district to implement the findings or prescription of the hearing officer  
468 or board without the necessity of establishing irreparable harm or  
469 inadequate remedy at law.

470 (3) If the hearing officer or board upholds the local or regional board  
471 of education or the unified school district responsible for providing  
472 special education and related services for such child or pupil who  
473 requires or may require special education on the issue of evaluation [ ]  
474 or reevaluation, [or placement in a private school or facility,] such  
475 board or district may evaluate [or provide such services to] the child or  
476 pupil without the consent of the parent or guardian, pupil if such pupil  
477 is an emancipated minor or is eighteen years of age or older, or the  
478 surrogate parent appointed pursuant to section 10-94g, subject to an  
479 appeal pursuant to subdivision (4) of this subsection.

480 (4) Appeals from the decision of the hearing officer or board shall be  
481 taken in the manner set forth in section 4-183, except the court shall  
482 hear additional evidence at the request of a party. Notwithstanding the  
483 provisions of section 4-183, such appeal shall be taken to the judicial  
484 district wherein the child or pupil resides. In the event of an appeal,  
485 upon request and at the expense of the State Board of Education, said  
486 board shall supply a copy of the transcript of the formal sessions of the

487 hearing officer or board to the parent or guardian or the emancipated  
488 minor or pupil eighteen years of age or older or surrogate parent or  
489 said commissioner and to the board of education of the school district  
490 or the unified school district.

491 (e) Hearing officers and members of the hearing board shall be paid  
492 reasonable fees and expenses as established by the State Board of  
493 Education.

494 (f) (1) In lieu of proceeding directly to a hearing, pursuant to  
495 subsection (a) of this section, the parties may agree in writing to  
496 request the Commissioner of Education to appoint a state mediator.  
497 Upon the receipt of a written request for mediation, signed by both  
498 parties, the commissioner shall appoint a mediator knowledgeable in  
499 the fields and areas significant to the review of the special educational  
500 needs of the child or pupil. The mediator shall attempt to resolve the  
501 issues in a manner which is acceptable to the parties. The mediator  
502 shall certify in writing to the Department of Education and to the  
503 parties whether the mediation was successful or unsuccessful.

504 (2) If the dispute is not resolved through mediation, either party  
505 may proceed to a hearing.

506 Sec. 6. Section 10-184a of the general statutes is repealed and the  
507 following is substituted in lieu thereof (*Effective from passage*):

508 (a) The provisions of sections 10-76a to 10-76h, inclusive, as  
509 amended by this act, shall not be construed to require any local,  
510 regional or state board of education to provide special education  
511 programs or services for any child whose parent or guardian has  
512 chosen to educate such child in a home or private school in accordance  
513 with the provisions of section 10-184 and who refuses to consent to  
514 such programs or services.

515 (b) If any such board of education provides special education  
516 programs or services for any child whose parent or guardian has  
517 chosen to educate such child in a private school in accordance with the

518 provisions of section 10-184, such programs or services shall be in  
519 compliance with the Individuals with Disabilities Education Act, 20  
520 USC 1400 et seq., as amended from time to time.

521 Sec. 7. Subsections (a) and (b) of section 17a-16a of the general  
522 statutes are repealed and the following is substituted in lieu thereof  
523 (*Effective July 1, 2011*):

524 (a) For purposes of this section:

525 (1) "Child" means (A) any school-aged child, (B) any child ages three  
526 to five, inclusive, who has been identified as eligible for special  
527 education pursuant to sections 10-76a to 10-76d, inclusive, as amended  
528 by this act, or under the Individuals with Disabilities Education Act, 20  
529 USC 1400 et seq., as amended from time to time, or (C) any child  
530 twenty-seven months to five years of age, inclusive, who has been  
531 referred to a planning and placement team to determine eligibility for  
532 special education and related services pursuant to sections 10-76a to  
533 10-76d, inclusive, as amended by this act, or under said Individuals  
534 with Disabilities Education Act, who is placed in out-of-home care by  
535 the commissioner pursuant to an order of temporary custody or an  
536 order of commitment, in accordance with section 46b-129.

537 (2) "School of origin" means the school that the child is attending at  
538 the time the department places the child in out-of-home care or the  
539 school the child is attending at the time of any change of out-of-home  
540 care, by the commissioner.

541 (3) "Receiving school" means the school that a child is attending  
542 following a school placement decision by the department in cases in  
543 which remaining in the school of origin is determined not to be in the  
544 child's best interests.

545 (4) "School placement decision" means a decision made by the  
546 department regarding the school in which the child will attend while  
547 the child is in out-of-home care and does not refer to the provision of a  
548 free, appropriate public education to children eligible for special

549 education.

550 (5) "Department" means the Department of Children and Families.

551 (6) "Commissioner" means the Commissioner of Children and  
552 Families.

553 (7) "Nexus school district" means the school district of a local or  
554 regional board of education under whose jurisdiction a child would  
555 otherwise be attending school.

556 (b) (1) Whenever a child is placed in out-of-home care by the  
557 department pursuant to an emergency order under subsection (e) of  
558 section 17a-101g or an order of temporary custody or an order of  
559 commitment under section 46b-129, and at any subsequent change in  
560 out-of-home care, any such child may, if it is in the best interests of the  
561 child, as determined pursuant to subdivision (3) of this subsection,  
562 continue to attend his or her school of origin. Such child shall continue  
563 to be a resident of the school district in which such school is located  
564 during such attendance for purposes of chapters 168 to 170, inclusive,  
565 172 and 173. The board of education for the school of origin shall  
566 continue to provide free school privileges to the child and any services  
567 provided by such board shall be in accordance with the provisions of  
568 subdivision (2) of subsection (e) of section 10-76d and section 10-253. If  
569 the child continues to attend his or her school of origin following  
570 placement in out-of-home care by the department, the local or regional  
571 board of education of the school of origin shall not be eligible to  
572 receive an excess cost grant pursuant to subdivision (2) of subsection  
573 (e) of section 10-76d for the cost of such education, including, but not  
574 limited to, tuition and transportation costs. For the fiscal year ending  
575 June 30, 2012, and each fiscal year thereafter, an excess cost grant  
576 pursuant to subdivision (2) of subsection (e) of section 10-76d shall be  
577 available to the nexus school district when the nexus school district  
578 pays the child's tuition to the local or regional board of education of  
579 the school of origin. If the nexus school district placed the child in a  
580 private school or regional educational service center program prior to  
581 the child being removed from the home by the department and the

582 child continues to attend such prior placement, the nexus school  
583 district, or, if the nexus school district cannot be identified, the town  
584 where the child resides, shall be eligible to receive the excess cost grant  
585 pursuant to section 10-76g.

586 (2) Every decision by the department to place a child into out-of-  
587 home care under the provisions of subsection (e) of section 17a-101g  
588 and section 46b-129, and any subsequent change in out-of-home care,  
589 shall take into account the appropriateness of the school setting and  
590 the proximity to the school of origin.

591 (3) (A) Whenever a child is placed in out-of-home care by the  
592 department pursuant to an emergency order under subsection (e) of  
593 section 17a-101g or an order of temporary custody or an order of  
594 commitment under section 46b-129, and at any subsequent change in  
595 out-of-home care, the department shall immediately determine  
596 whether it is in the best interests of the child to remain in the school of  
597 origin. There shall be a presumption that it is in the child's best  
598 interests to remain in the school of origin. The department shall  
599 provide written notice of its decision to the parties not later than three  
600 business days after the date on which the decision is made. Such notice  
601 shall identify the factors that form the basis of the department's  
602 decision. Any party may object to the department's decision not later  
603 than three business days after receipt of such notice. The child shall  
604 remain in the school of origin until the time for objection has passed  
605 and until any disagreement is resolved, except as provided in  
606 subparagraph (C) of this subdivision. The child shall be transported to  
607 the school of origin pursuant to subsection (c) of this section during  
608 any such disagreement except as provided in subparagraph (C) of this  
609 subdivision. Such disagreements shall be expeditiously resolved. The  
610 department shall bear the burden of proof that the school placement  
611 decision is in the child's best interests.

612 (B) The school placement decision may be revisited at any time  
613 during the child's out-of-home care, if circumstances change, in order  
614 to ensure that the school placement decision remains in the best

615 interests of the child. Notice of any subsequent decision to change the  
 616 child's school placement decision shall be provided in accordance with  
 617 subparagraph (A) of this subdivision. Any school placement decision  
 618 made pursuant to this section may be challenged through the dispute  
 619 resolution process for treatment plans. The child shall remain in the  
 620 school of origin until any such disagreement is resolved, except as  
 621 provided in subparagraph (C) of this subdivision and shall be  
 622 provided with transportation in accordance with subsection (c) of this  
 623 section.

624 (C) If at any time the department determines that continued  
 625 placement in the school of origin will jeopardize the child's immediate  
 626 physical safety, the department may immediately remove the child  
 627 from the school and shall notify the child's attorney, parents, guardian  
 628 ad litem and surrogate parent, if any, by phone or by facsimile on the  
 629 same business day. Any party may object to the decision to change the  
 630 child's school placement not later than three business days after receipt  
 631 of such notice. If any party objects to the change in school placement,  
 632 the department shall hold an administrative hearing not later than  
 633 three business days after the objection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	10-76d(a)(8)
Sec. 2	<i>July 1, 2011</i>	10-145a
Sec. 3	<i>July 1, 2011</i>	10-220a(a)
Sec. 4	<i>July 1, 2011</i>	10-145b(i)(1)
Sec. 5	<i>from passage</i>	10-76h
Sec. 6	<i>from passage</i>	10-184a
Sec. 7	<i>July 1, 2011</i>	17a-16a(a) and (b)

**ED**            *Joint Favorable Subst.*

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:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Various Municipalities	STATE MANDATE - Potential Cost	Minimal	Minimal

### **Explanation**

**Section 1**, which results in the potential for additional opportunities for meetings between the school district officials and parents of students, could potentially result in an additional cost to local and regional school districts. If teachers are required to hold additional meetings with parents, districts would be required to find a substitute teacher for the time that the teacher is not in the classroom. It is unknown to what extent teachers would be meeting during regular school hours and how frequently substitutes would be required. The average daily cost for a substitute teacher ranges from \$85 to \$125.

**Sections 2-7** are procedural changes related to teacher certification, training requirements for special education, special education services at private schools, and excess cost grant payment procedures and are not anticipated to result in a fiscal impact.

### **The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to the daily rate of substitute teachers.

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**OLR Bill Analysis****sSB 1038****AN ACT CONCERNING INDIVIDUALIZED EDUCATION PROGRAMS AND OTHER ISSUES RELATING TO SPECIAL EDUCATION.****SUMMARY:**

This bill makes several changes to the state's special education law. It:

1. requires additional opportunities for meetings and the exchange of information between school district officials and parents of students in, or under evaluation for, special education;
2. requires teacher certification preparation and professional development to include expanded instruction and training regarding implementing individualized education programs (IEPs);
3. removes a state requirement, that is not required by federal law, for parental consent regarding a certain type of special education placement in a private school; and
4. specifies the school district eligible for special education excess cost grant money when a child is placed in a school district other than his or her district of origin.

It also makes technical changes.

EFFECTIVE DATE: July 1, 2011, except the provisions regarding special education and private schools take effect upon passage.

**§ 1 — NOTIFICATION AND INFORMATION PRIOR TO PPT MEETING**

The bill requires a school district responsible for providing special

education to offer to meet with the student's parents after the student has been assessed for possible placement in special education and before the planning and placement team (PPT) meets. The sole purpose of the meeting is to discuss the PPT process and any concerns the parent has about the student.

It specifies the parents must be given the opportunity to meet with a PPT member designated by the school board before the PPT meeting at which the student's assessments and evaluations will be discussed for the first time. This applies to students already receiving special education and those under evaluation for possible placement in special education.

The bill also requires school boards to provide parents with copies of assessments and evaluations used to determine special education eligibility at least three school days before the PPT meeting at which the assessments will be first discussed. The boards must document in a student's record that the assessments and evaluations were provided on time to meet the bill's requirement. Parents may waive this requirement by delivering a signed written waiver to the district.

The bill requires the school district to provide parents with any State Department of Education information and resources relating to IEPs as soon as a child is identified as requiring special education. IEPs are the individual plans that PPTs craft and agree to in order to address the student's special education needs.

These requirements also apply to guardians, emancipated minor pupils, and surrogate parents appointed according to statute.

#### **§§ 2-4 — TEACHER CERTIFICATION AND TRAINING REQUIREMENTS FOR SPECIAL EDUCATION**

The bill requires teacher certification preparation and professional development programs to include expanded instruction and training regarding implementing IEPs. This includes requiring:

1. certification preparation programs to include instruction on

implementing IEPs as they relate to special education and related services;

2. districts, as part of required in-service training options for certified personnel, to offer information on implementing student IEPs; and
3. special education teachers, as part of their required 90 hours of professional development every five years, to complete at least 10 hours of training on implementing student IEPs and communicating IEP procedures to parents or guardians of special education students.

### **§§ 5 & 6 — SPECIAL EDUCATION AND PRIVATE SCHOOLS**

Almost all procedures in special education are imposed by federal law to which state law must conform. The bill eliminates a state requirement that the district obtain parental consent before placing a special education child in a private facility. Federal law does not require consent for such a placement.

It specifies that, if a school district provides special education services to a student whose parents have chosen to send him or her to a private school, the services must comply with the federal Individuals with Disabilities Education Act (IDEA) (see BACKGROUND).

### **§ 7 — SPECIAL EDUCATION EXCESS COST GRANT**

The state provides special education excess cost grants to help local districts pay for special education services if the services' cost exceeds the local share of special education costs. Some special education students are sent to school outside the district they live in if their home district cannot provide them with adequate educational services. In these situations, the district the student lives in is financially responsible for the student's education and must send special education money to the school the student attends (i.e., the "school of origin").

Under the bill, the excess cost grants are provided to the financially responsible school district when the Department of Children and Families (DCF) places a special education child in out-of-home care. By law, when DCF places a child in out-of-home care, such as a relative's or foster parent's home, or changes such a placement, the department must determine immediately whether it is in the child's best interest to remain in the school he or she had been attending (i.e., the school of origin).

The bill specifies that, starting with FY 12, the state special education excess cost grant for the child goes to the financially responsible district (i.e., the "nexus district"), if the school of origin is in a district other than the nexus district and the nexus district pays tuition to the school of origin. The excess cost grant also goes to the nexus district in cases where it placed the child in a private school or regional education special education facility before DCF removed the child from his or her home and the nexus district continues to pay tuition for the child.

Under the bill, the excess cost grant goes to the district where the student is living if the nexus district cannot be identified (which may be the case when a child is new to Connecticut).

## **BACKGROUND**

### ***Federal IDEA***

IDEA (20 USC 1400 et seq.) governs special education programs and procedures in states and local school districts, requiring the provision of appropriate educational services to children with disabilities. Connecticut law and regulations must comply with IDEA.

## **COMMITTEE ACTION**

Education Committee

Joint Favorable Substitute

Yea 28 Nay 4 (03/17/2011)