



General Assembly

Substitute Bill No. 1038

January Session, 2011

* _____SB01038APP__050511_____*

**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2 general statutes is repealed and the following is substituted in lieu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.*

APP *Joint Favorable*

