



# House of Representatives

General Assembly

**File No. 624**

January Session, 2019

Substitute House Bill No. 7353

*House of Representatives, April 11, 2019*

The Committee on Education reported through REP. SANCHEZ of the 25th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE PROVISION OF SPECIAL EDUCATION.**

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

1 Section 1. Section 10-76q of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) The State Board of Education, in accordance with regulations  
4 adopted by said board, shall: (1) Provide the professional services  
5 necessary to identify, in accordance with section 10-76a, children  
6 requiring special education who are enrolled at a technical education  
7 and career school; (2) identify each such child; (3) determine the  
8 appropriateness of the technical education and career school for the  
9 educational needs of each such child; (4) provide an appropriate  
10 educational program for each such child; (5) maintain a record thereof;  
11 and (6) annually evaluate the progress and accomplishments of special  
12 education programs provided by the Technical Education and Career  
13 System.

14 (b) Where it is deemed appropriate that a child enrolled in a

15 technical education and career school receive special education, the  
16 parents or guardian of such child shall have a right to the hearing and  
17 appeal process as provided for in section 10-76h.

18 [(c) If a planning and placement team determines that a student  
19 requires special education services which preclude such student's  
20 participation in the vocational education program offered by a  
21 technical education and career school, the student shall be referred to  
22 the board of education in the town in which the student resides for the  
23 development of an individualized educational program and such  
24 board of education shall be responsible for the implementation and  
25 financing of such program.]

26 Sec. 2. Section 10-76d of the general statutes is amended by adding  
27 subsection (i) as follows (*Effective July 1, 2019*):

28 (NEW) (i) No local or regional board of education shall discipline,  
29 suspend, terminate or otherwise punish any member of a planning and  
30 placement team employed by such board who discusses or makes  
31 recommendations concerning the provision of special education and  
32 related services for a child during a planning and placement team  
33 meeting for such child. Nothing in this subsection shall limit or  
34 prevent a supervisor conducting a performance evaluation for a  
35 member of a planning and placement team from evaluating such  
36 member's professional conduct during a planning and placement team  
37 meeting.

38 Sec. 3. (*Effective from passage*) (a) There is established a working  
39 group to study issues relating to the gap of services for children three  
40 to five years of age, inclusive, during the period in which such children  
41 are no longer eligible for services provided by the birth-to-three  
42 program, established pursuant to section 17a-248d of the general  
43 statutes, and not yet eligible to receive special education and related  
44 services pursuant to sections 10-76a to 10-76h, inclusive, of the general  
45 statutes until such children are enrolled in kindergarten. As part of  
46 such study, the working group shall review and evaluate the eligibility  
47 criteria for special education and related services that creates such gap

48 and prevents children from experiencing a continuity of services.

49 (b) The working group shall consist of the following members:

50 (1) The Commissioner of Early Childhood, or the commissioner's  
51 designee;

52 (2) The Commissioner of Education, or the commissioner's designee;

53 (3) The Child Advocate;

54 (4) A representative designated by the Connecticut Association of  
55 Public School Superintendents;

56 (5) Three birth-to-three program service providers, selected by the  
57 Commissioner of Early Childhood; and

58 (6) A representative from each regional educational service center  
59 who is responsible for the provision of special education services for  
60 the center, designated by the center.

61 (c) All member selections to the working group pursuant to  
62 subdivision (5) of subsection (b) of this section shall be made not later  
63 than thirty days after the effective date of this section. Any vacancy  
64 shall be filled by the Commissioner of Early Childhood.

65 (d) The first meeting of the working group shall be scheduled by the  
66 Commissioner of Early Childhood and held not later than sixty days  
67 after the effective date of this section. The chairperson of the working  
68 group shall be elected from among the members of the working group  
69 at the first meeting.

70 (e) The administrative staff of the joint standing committee of the  
71 General Assembly having cognizance of matters relating to education  
72 shall serve as administrative staff of the working group.

73 (f) Not later than January 1, 2020, the working group shall submit a  
74 report on its findings and recommendations to the joint standing  
75 committee of the General Assembly having cognizance of matters

76 relating to education, in accordance with the provisions of section 11-  
77 4a of the general statutes. The working group shall terminate on the  
78 date that it submits such report or January 1, 2020, whichever is later.

79 Sec. 4. Section 10-76jj of the general statutes is repealed and the  
80 following is substituted in lieu thereof (*Effective July 1, 2019*):

81 The individualized education program or plan pursuant to Section  
82 504 of the Rehabilitation Act of 1973, as amended from time to time, for  
83 any child identified as deaf or hard of hearing shall include a language  
84 and communication plan. In the case of a child with an individualized  
85 education program, the language and communication plan shall be  
86 developed by the planning and placement team for such child. Such  
87 language and communication plan shall address: (1) The primary  
88 language or mode of communication chosen for the child, (2)  
89 opportunities for direct communication with peers and professional  
90 personnel in the primary language or mode of communication for the  
91 child, (3) educational options available to the child, (4) the  
92 qualifications of teachers and other professional personnel  
93 administering such plan for the child, including such teacher's or  
94 personnel's proficiency in the primary language or mode of  
95 communication for the child, (5) the accessibility of academic  
96 instruction, school services and extracurricular activities to the child,  
97 (6) assistive devices and services for the child, [and] (7) communication  
98 and physical environment accommodations for the child, and (8) an  
99 emergency communication plan that includes procedures for alerting  
100 the child of an emergency situation and ensuring that the specific  
101 needs of the child are met during the emergency situation.

102 Sec. 5. (*Effective from passage*) (a) As used in this section, "emergency  
103 communication plan" means a plan developed for a student identified  
104 as deaf, hard of hearing or both blind or visually impaired and deaf,  
105 that includes procedures for alerting such student of an emergency  
106 situation and ensuring that the specific needs of the student are met  
107 during the emergency situation.

108 (b) Not later than October 1, 2019, the Department of Emergency

109 Services and Public Protection, in consultation with the Department of  
110 Education, shall revise the school security and safety plan standards,  
111 developed pursuant to section 10-222n of the general statutes, to  
112 include provisions relating to emergency communication plans.

113 (c) Not later than January 1, 2020, each local and regional board of  
114 education shall revise the school security and safety plan for each  
115 school under the jurisdiction of such board, developed pursuant to  
116 section 10-222m of the general statutes, to include provisions relating  
117 to emergency communication plans.

118 Sec. 6. (*Effective from passage*) Not later than October 1, 2019, the  
119 School Safety Infrastructure Council shall revise the school safety  
120 infrastructure criteria for school building projects, developed pursuant  
121 to section 10-292r of the general statutes, to include provisions relating  
122 to emergency communication plans. As used in this section,  
123 "emergency communication plan" means a plan developed for a  
124 student identified as deaf, hard of hearing or both blind or visually  
125 impaired and deaf, that includes procedures for alerting such student  
126 of an emergency situation and ensuring that the specific needs of the  
127 student are met during the emergency situation.

128 Sec. 7. (*Effective July 1, 2019*) The Departments of Education and  
129 Public Health and the Office of Early Childhood shall develop a  
130 process for collecting and sharing data to ensure that students with an  
131 individualized education program or a plan pursuant to Section 504 of  
132 the Rehabilitation Act of 1973, as amended from time to time, and  
133 whose primary disability is identified as being deaf, hard of hearing or  
134 both blind or visually impaired and deaf, have the necessary language  
135 skills to acquire knowledge that will assist them to be successful in  
136 school and after graduation. Not later than January 1, 2020, the  
137 Department of Education shall submit a report on such process to the  
138 joint standing committee of the General Assembly having cognizance  
139 of matters relating to education, in accordance with the provisions of  
140 section 11-4a of the general statutes.

141 Sec. 8. (*Effective July 1, 2019*) The Department of Education shall

142 establish a working group, within the department, on language  
143 assessment for students identified as deaf, hard of hearing or both  
144 blind or visually impaired and deaf. The working group shall develop  
145 guidelines concerning appropriate language assessments, practices  
146 and programs and the provision of immediate interventions when a  
147 student does not demonstrate progress in age-appropriate expressive  
148 and receptive language skills.

149 Sec. 9. (NEW) (*Effective July 1, 2019*) A local or regional board of  
150 education shall, upon the identification of a student as gifted and  
151 talented, provide written notice of such identification to the parent or  
152 guardian of such student. Such notice shall include, but need not be  
153 limited to, (1) an explanation of how such student was identified as  
154 gifted and talented, and (2) the contact information for (A) the  
155 employee at the Department of Education who has been designated as  
156 responsible for providing information and assistance to boards of  
157 education and parents or guardians of students related to gifted and  
158 talented students, pursuant to section 10-3e of the general statutes, and  
159 (B) any associations in the state that provide support to gifted and  
160 talented students.

161 Sec. 10. Subsection (h) of section 10-264l of the general statutes is  
162 repealed and the following is substituted in lieu thereof (*Effective July*  
163 *1, 2019*):

164 (h) (1) In the case of a student identified as requiring special  
165 education, the school district in which the student resides shall: [(1)]  
166 (A) Hold the planning and placement team meeting for such student  
167 and shall invite representatives from the interdistrict magnet school to  
168 participate in such meeting; and [(2)] (B) pay the interdistrict magnet  
169 school an amount equal to the difference between the reasonable cost  
170 of educating such student and the sum of the amount received by the  
171 interdistrict magnet school for such student pursuant to subsection (c)  
172 of this section and amounts received from other state, federal, local or  
173 private sources calculated on a per pupil basis. Such school district  
174 shall be eligible for reimbursement pursuant to section 10-76g. If a

175 student requiring special education attends an interdistrict magnet  
 176 school on a full-time basis, such interdistrict magnet school shall be  
 177 responsible for ensuring that such student receives the services  
 178 mandated by the student's individualized education program whether  
 179 such services are provided by the interdistrict magnet school or by the  
 180 school district in which the student resides.

181 (2) In the case of a student with a plan pursuant to Section 504 of the  
 182 Rehabilitation Act of 1973, as amended from time to time, the school  
 183 district in which the student resides shall pay the interdistrict magnet  
 184 school an amount equal to the difference between the reasonable cost  
 185 of educating such student and the sum of the amount received by the  
 186 interdistrict magnet school for such student pursuant to subsection (c)  
 187 of this section and amounts received from other state, federal, local or  
 188 private sources calculated on a per pupil basis. If a student with a plan  
 189 pursuant to Section 504 of the Rehabilitation Act of 1973, as amended  
 190 from time to time, attends an interdistrict magnet school on a full-time  
 191 basis, such interdistrict magnet school shall be responsible for ensuring  
 192 that such student receives the services mandated by the student's plan,  
 193 whether such services are provided by the interdistrict magnet school  
 194 or by the school district in which the student resides.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2019	10-76q
Sec. 2	July 1, 2019	10-76d
Sec. 3	from passage	New section
Sec. 4	July 1, 2019	10-76jj
Sec. 5	from passage	New section
Sec. 6	from passage	New section
Sec. 7	July 1, 2019	New section
Sec. 8	July 1, 2019	New section
Sec. 9	July 1, 2019	New section
Sec. 10	July 1, 2019	10-264l(h)

**Statement of Legislative Commissioners:**

In Section 3(a), the reference to "section 17a-248b" was changed to "section 17a-248d" for accuracy.

**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 20 \$</b>	<b>FY 21 \$</b>
Various Local and Regional School Districts	STATE MANDATE <sup>1</sup> - Cost	Less than \$500	Less than \$500

**Explanation**

The bill results in a state mandate and a cost of less than \$500 per local and regional school district, associated with requiring the district to provide written notification to parents if their child has been identified as gifted and talented. The costs are associated with supplies for mailing and are anticipated to be less than \$500.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>1</sup> State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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**OLR Bill Analysis**

**sHB 7353**

**AN ACT CONCERNING THE PROVISION OF SPECIAL EDUCATION.**

**SUMMARY**

This bill makes changes in education statutes relating to special education and nondiscrimination as summarized in the section-by-section analysis below. Among the changes, the bill does the following:

1. designates responsibility for providing services and paying costs for students with 504 plans (i.e., the accommodation plan of a student under the federal Rehabilitation Act of 1973) (§ 10);
2. eliminates a provision in current law requiring a technical high school planning and placement team (PPT) to refer a student who is eligible for special education services back to the school district where he or she resides if the team determines the vocational education program is unsuitable (§ 1);
3. prohibits boards of education from disciplining, suspending, terminating, or otherwise punishing their employees for making special education recommendations in PPT meetings, yet affirms their supervisors' authority to evaluate their professional conduct during these meetings (§ 2);
4. requires the creation of new service and accommodation plans for students who are deaf or hard of hearing, and requires various state entities to address "emergency communication plans" in the school safety guidance they issue to school districts (§§ 4-6);
5. requires the State Department of Education (SDE), along with

other state agencies, to collect data and study language skills for students whose primary disability is identified as deaf or hard of hearing or both blind or visually impaired and deaf (§§ 7-8);

6. establishes a working group to study issues related to student transitions between Birth to Three (see BACKGROUND) and kindergarten special education services (§ 3); and
7. requires local or regional boards of education to notify parents or guardians in writing if their child has been identified as gifted and talented (§ 9).

EFFECTIVE DATE: July 1, 2019, except the provisions about state agencies' revisions to school safety guidance (§§ 5 & 6) and the Birth to Three working group (§ 3) take effect upon passage.

### **§ 1 — PPT PLACEMENT OF TECHNICAL HIGH SCHOOL STUDENTS**

Under state and federal special education law, a student found eligible for special education services must be placed in the educational setting that best meets his or her needs. This placement decision is made by the PPT formed in the school district where the student attends, and parents or guardians have the right to appeal this decision in an administrative hearing and a court of law.

The bill removes the provision in state law that requires technical high school students, who attend school in the state's only state-run system, to be referred back to the sending district where they live for IEP development and school attendance if a PPT decides that the special education services they require preclude them from being educated in a vocational education program. (Under federal law, however, a technical high school PPT still retains the authority to place a student outside of the school, and parents or guardians still retain the right to pursue a legal challenge to such placement decision.)

### **§ 3 — SPECIAL EDUCATION WORKING GROUP**

The bill establishes a working group to study issues related to

student transitions between Birth to Three (see BACKGROUND) and kindergarten special education services. Specifically, the bill requires the group to do the following:

1. study issues relating to the gap of services for children aged three to five years who have aged out of Birth to Three services eligibility and have not yet enrolled in kindergarten and
2. review and evaluate the special education and related services eligibility criteria that creates such gap and prevents children from experiencing a continuity of services.

(It appears that federal law does not permit a gap in services between the Birth to Three program and public school special education for eligible students. Children who complete Birth to Three and are assessed as eligible for early childhood special education must be referred to their school district to transition to public school services beginning at age 3 (20 U.S.C. § 1437(a)(9)). State law also recognizes this transition (CGS §§ 17a-248d & 17a-248e).)

### ***Working Group Report***

The group must submit a report to the Education Committee by January 1, 2020, on its findings and recommendations and terminates on the date it submits the report or January 1, 2020, whichever is later.

### ***Membership***

Under the bill, the working group is comprised of the following 13 members:

1. the Office of Early Childhood (OEC) commissioner, or her designee;
2. the education commissioner, or her designee;
3. the Child Advocate;
4. a representative from the Connecticut Association of Public School Superintendents;

5. three Birth to Three program service providers, selected by the OEC commissioner; and
6. representatives from each of the six regional education service centers (RESCs), selected by the RESCs, who are responsible for their respective center's special education services.

The bill requires all member selections to be made within 30 days of the bill's effective date. The OEC commissioner must fill any vacancy on the working group.

### ***Group Meetings and Staff***

Under the bill, the OEC commissioner must schedule and hold the first working group meeting within 60 days of the bill's effective date. The group must elect a chair from its members at the first meeting.

The Education Committee's administrative staff must serve as the working group's administrative staff.

## **§§ 4-6 — PLANS FOR DEAF AND HARD OF HEARING STUDENTS**

The bill requires the creation of new service and accommodation plans for students who are deaf or hard of hearing, and requires various state entities to address such plans in the guidance they issue to school districts.

### ***Language and Communication Plans (§ 4)***

Under current law, students who are eligible for special education and related services and are identified as deaf or hard of hearing must have a language and communication plan included in their individualized education program (IEP) (i.e., a written statement detailing the student's academic achievement level, goals for future achievement, and specialized educational services needed to reach the goals). The bill requires students with 504 plans to also have a language and communication plan.

By law, a language and communication plan must address the following:

1. the student's primary language or mode of communication;
2. opportunities for direct communication with peers and professional personnel in the student's primary language or mode of communication;
3. educational options available to the student;
4. qualifications of teachers and other professional personnel in administering the plan, including their proficiency in the student's primary language or mode of communication;
5. accessibility of academic instruction, school services, and extracurricular activities for the student;
6. assistive devices and services for the student; and
7. communication and physical environment accommodations for the student.

Additionally, the bill adds an eighth required element for language and communication plans: an "emergency communication plan," which includes procedures to alert the student about an emergency situation and ensure that the student's specific needs are met during this situation.

***Emergency Communication Plans (§§ 5 & 6)***

The bill requires various state agencies to consider deaf or hard of hearing students' emergency communication plans in the formal guidance they issue to school districts about school emergency procedures and construction projects.

***School Security and Safety Plans.*** The bill requires the Department of Emergency Services and Public Protection, in consultation with SDE, to revise its school security and safety plan standards by October 1, 2019, to include provisions relating to emergency communication plans. (Existing law describes these standards as an "all hazards approach" to emergencies at public

schools.) Local and regional boards of education must revise their own school security and safety plans by January 1, 2020, to include similar provisions.

**School Safety Infrastructure Criteria.** The bill requires the School Safety Infrastructure Council to revise the school safety infrastructure criteria for school building projects by October 1, 2019, to include provisions relating to emergency communication plans.

### **§§ 7 & 8 — LANGUAGE SKILLS FOR DEAF OR HARD OF HEARING STUDENTS**

The bill requires SDE, the Department of Public Health, and the Office of Early Childhood to develop a process for collecting and sharing data to ensure that students who have IEPs or 504 plans with a primary disability as being deaf or hard of hearing, or both blind or visually impaired and deaf, have the language skills necessary to acquire knowledge and assist them to be successful in school and after graduation. SDE must report to the Education Committee by January 1, 2020, on this process.

Additionally, the bill requires SDE to establish a working group within the department about language assessment for students identified as deaf or hard of hearing, or both blind or visually impaired and deaf. The group must develop guidelines about (1) appropriate language assessments, (2) practices and programs, and (3) provision of intermediate interventions when a student does not demonstrate progress in age-appropriate expressive and receptive language skills.

### **§ 9 — GIFTED AND TALENTED STUDENTS**

The bill requires boards of education to give parents or guardians written notice if their child has been identified as gifted and talented. The notice must include the following:

1. an explanation of how the student was identified and
2. the contact information for (a) any Connecticut associations that provide support to gifted and talented students and (b) the SDE employee designated to provide information and assistance to families and school districts about gifted and talented students.

**§ 10 — SERVICES AND ASSOCIATED COSTS FOR MAGNET SCHOOL STUDENTS WITH 504 PLANS**

For students with 504 plans who are attending inter-district magnet schools, the bill apportions responsibility for ensuring service delivery and covering associated educational costs between the student’s sending district and magnet school operator.

**504 Services**

Under the bill, the magnet school that the student attends bears responsibility for ensuring that all services outlined in the student’s 504 plan are provided: those provided by the magnet school itself as well as by the sending district. This only applies for such students who attend the magnet school full-time.

**Associated Costs**

Under the bill, the sending district must pay such student’s educational costs, calculated by subtracting from the reasonable cost of educating the student the sum of (1) the amount received by the magnet school as a per-pupil state operating grant plus (2) any other amounts received by state, federal, local, or private sources.

**BACKGROUND**

**Birth to Three Program**

The Birth to Three Program is designed to strengthen families’ capacities to meet the developmental and health-related needs of their infants and toddlers who have developmental delays or disabilities. Eligible families work with service providers to develop individualized family service plans. OEC is the state’s lead agency for the program.

**COMMITTEE ACTION**

Education Committee

Joint Favorable Substitute  
Yea 35 Nay 0 (03/25/2019)