



House of Representatives

File No. 1029

General Assembly

January Session, 2019

(Reprint of File No. 624)

Substitute House Bill No. 7353
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 31, 2019

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

3 (NEW) (i) No local or regional board of education shall discipline,
4 suspend, terminate or otherwise punish any member of a planning and
5 placement team employed by such board who discusses or makes
6 recommendations concerning the provision of special education and
7 related services for a child during a planning and placement team
8 meeting for such child.

9 Sec. 2. (*Effective from passage*) (a) There is established a working
10 group to study issues relating to the provision of special education and
11 related services during the period in which a child is no longer eligible
12 for services provided by the birth-to-three program, established
13 pursuant to section 17a-248d of the general statutes, and is not yet
14 enrolled in kindergarten. As part of such study, the working group
15 shall review and evaluate any practices or policies of the Office of

16 Early Childhood or local or regional boards of education that may
17 result in a child experiencing a disruption in or cessation of services
18 during such period.

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

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

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

23 (3) The Child Advocate;

24 (4) A representative designated by the Connecticut Association of
25 Public School Superintendents;

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

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

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

35 (d) The first meeting of the working group shall be scheduled by the
36 Commissioner of Early Childhood and held not later than sixty days
37 after the effective date of this section. The chairperson of the working
38 group shall be elected from among the members of the working group
39 at the first meeting.

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

43 (f) Not later than January 1, 2020, the working group shall submit a
44 report on its findings and recommendations to the joint standing
45 committee of the General Assembly having cognizance of matters
46 relating to education, in accordance with the provisions of section 11-
47 4a of the general statutes. The working group shall terminate on the
48 date that it submits such report or January 1, 2020, whichever is later.

49 Sec. 3. Section 10-76jj of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective July 1, 2019*):

51 The individualized education program or plan pursuant to Section
52 504 of the Rehabilitation Act of 1973, as amended from time to time, for
53 any child identified as deaf or hard of hearing shall include a language
54 and communication plan. In the case of a child with an individualized
55 education program, the language and communication plan shall be
56 developed by the planning and placement team for such child. Such
57 language and communication plan shall address: (1) The primary
58 language or mode of communication chosen for the child, (2)
59 opportunities for direct communication with peers and professional
60 personnel in the primary language or mode of communication for the
61 child, (3) educational options available to the child, (4) the
62 qualifications of teachers and other professional personnel
63 administering such plan for the child, including such teacher's or
64 personnel's proficiency in the primary language or mode of
65 communication for the child, (5) the accessibility of academic
66 instruction, school services and extracurricular activities to the child,
67 (6) assistive devices and services for the child, [and] (7) communication
68 and physical environment accommodations for the child, and (8) an
69 emergency communication plan that includes procedures for alerting
70 the child of an emergency situation and ensuring that the specific
71 needs of the child are met during the emergency situation.

72 Sec. 4. (*Effective from passage*) (a) As used in this section, "emergency
73 communication plan" means a plan developed for a student identified
74 as deaf, hard of hearing or both blind or visually impaired and deaf,
75 that includes procedures for alerting such student of an emergency

76 situation and ensuring that the specific needs of the student are met
77 during the emergency situation.

78 (b) Not later than October 1, 2019, the Department of Emergency
79 Services and Public Protection, in consultation with the Department of
80 Education, shall revise the school security and safety plan standards,
81 developed pursuant to section 10-222n of the general statutes, to
82 include provisions relating to emergency communication plans.

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

88 Sec. 5. (*Effective from passage*) Not later than October 1, 2019, the
89 School Safety Infrastructure Council shall revise the school safety
90 infrastructure criteria for school building projects, developed pursuant
91 to section 10-292r of the general statutes, to include provisions relating
92 to emergency communication plans. As used in this section,
93 "emergency communication plan" means a plan developed for a
94 student identified as deaf, hard of hearing or both blind or visually
95 impaired and deaf, that includes procedures for alerting such student
96 of an emergency situation and ensuring that the specific needs of the
97 student are met during the emergency situation.

98 Sec. 6. (*Effective July 1, 2019*) The Department of Education shall
99 establish a working group, within the department, on language
100 assessment for students identified as deaf, hard of hearing or both
101 blind or visually impaired and deaf. The working group shall develop
102 guidelines concerning appropriate language assessments, practices
103 and programs and the provision of immediate interventions when a
104 student does not demonstrate progress in age-appropriate expressive
105 and receptive language skills.

106 Sec. 7. (NEW) (*Effective July 1, 2019*) A local or regional board of
107 education shall, upon the identification of a student as gifted and

108 talented, provide electronic notice of such identification to the parent
109 or guardian of such student. Such notice shall include, but need not be
110 limited to, (1) an explanation of how such student was identified as
111 gifted and talented, and (2) the contact information for (A) the
112 employee of the school district in charge of the provision of services to
113 gifted and talented students, or, if there is no such employee, the
114 employee of the school district in charge of the provision of special
115 education and related services, (B) the employee at the Department of
116 Education who has been designated as responsible for providing
117 information and assistance to boards of education and parents or
118 guardians of students related to gifted and talented students, pursuant
119 to section 10-3e of the general statutes, and (C) any associations in the
120 state that provide support to gifted and talented students.

121 Sec. 8. Subsection (h) of section 10-264l of the general statutes is
122 repealed and the following is substituted in lieu thereof (*Effective July*
123 *1, 2019*):

124 (h) (1) In the case of a student identified as requiring special
125 education, the school district in which the student resides shall: [(1)]
126 (A) Hold the planning and placement team meeting for such student
127 and shall invite representatives from the interdistrict magnet school to
128 participate in such meeting; and [(2)] (B) pay the interdistrict magnet
129 school an amount equal to the difference between the reasonable cost
130 of educating such student and the sum of the amount received by the
131 interdistrict magnet school for such student pursuant to subsection (c)
132 of this section and amounts received from other state, federal, local or
133 private sources calculated on a per pupil basis. Such school district
134 shall be eligible for reimbursement pursuant to section 10-76g. If a
135 student requiring special education attends an interdistrict magnet
136 school on a full-time basis, such interdistrict magnet school shall be
137 responsible for ensuring that such student receives the services
138 mandated by the student's individualized education program whether
139 such services are provided by the interdistrict magnet school or by the
140 school district in which the student resides.

141 (2) In the case of a student with a plan pursuant to Section 504 of the
142 Rehabilitation Act of 1973, as amended from time to time, the school
143 district in which the student resides shall pay the interdistrict magnet
144 school an amount equal to the difference between the reasonable cost
145 of educating such student and the sum of the amount received by the
146 interdistrict magnet school for such student pursuant to subsection (c)
147 of this section and amounts received from other state, federal, local or
148 private sources calculated on a per pupil basis. If a student with a plan
149 pursuant to Section 504 of the Rehabilitation Act of 1973, as amended
150 from time to time, attends an interdistrict magnet school on a full-time
151 basis, such interdistrict magnet school shall be responsible for ensuring
152 that such student receives the services mandated by the student's plan,
153 whether such services are provided by the interdistrict magnet school
154 or by the school district in which the student resides.

155 Sec. 9. (*Effective from passage*) Not later than July 1, 2020, the IEP
156 Advisory Council established within the Department of Education
157 shall conduct a study concerning the authorization of private
158 therapists to provide special education and related services directly to
159 students at school during the regular school day. Such study shall
160 examine issues relating to the inclusion of such authorization in a
161 child's individualized education program and the use of a parent or
162 guardian's private insurance to cover the cost of such services. The
163 Department of Education shall submit such study and any
164 recommendations to the joint standing committee of the General
165 Assembly having cognizance of matters relating to education, in
166 accordance with the provisions of section 11-4a of the general statutes.

167 Sec. 10. (NEW) (*Effective July 1, 2019*) Any private provider of special
168 education services, as defined in section 10-91g of the general statutes,
169 that has entered into a contract with a local or regional board of
170 education, pursuant to section 10-91j of the general statutes, shall
171 inform such board of (1) all complaints received against such private
172 provider concerning the mistreatment of students receiving special
173 education services from such private provider, (2) the resolution or
174 outcome of such complaints and any corrective action taken as a result

175 of such complaints, and (3) any programming or service changes for
176 students under the jurisdiction of such board as a result of a complaint.

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

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

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various procedural and clarifying changes related to special education and does not result in a cost to the State Department of Education (SDE) or local and regional school districts.

House "A" removes the state mandate and cost of up to \$500 for various local and regional school districts, which was included in the original bill.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 7353 (as amended by House "A")******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) (§ 8);
2. prohibits boards of education from disciplining, suspending, terminating, or otherwise punishing their employees for making special education recommendations in planning and placement team (PPT) meetings (§ 1);
3. 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 (§§ 3-5);
4. requires the State Department of Education (SDE) to establish a working group to study language skills assessment for students whose primary disability is identified as deaf or hard of hearing or both blind or visually impaired and deaf (§ 6);
5. establishes a working group to study issues related to student

transitions between Birth to Three (see BACKGROUND) and kindergarten special education services (§ 2);

6. requires local or regional boards of education to electronically notify parents or guardians if their child has been identified as gifted and talented (§ 7);
7. requires SDE's Individual Education Program (IEP) Advisory Council to study the authorization of private therapists to provide special education and related services directly to students at school during the regular school day (§ 9); and
8. requires any private special education provider that has a contract with a local or regional board of education to inform the board about certain complaints against the provider (§ 10).

*House Amendment "A" removes the provisions in the underlying bill that (1) remove the provision in existing law requiring the state's technical high school to refer students back to their sending district if PPT decides they require services that preclude them from being educated in a vocational program and (2) require SDE to develop a data collection process about the language skills of students who are deaf or hard of hearing. It also revises the charge of the Birth to Three working group (§ 2) and provisions about gifted and talented students (§ 7). Finally, it adds provisions on studying the use of private therapists to provide special education services (§ 9) and private special education provider transparency (§ 10).

EFFECTIVE DATE: July 1, 2019, except the provisions about state agencies' revisions to school safety guidance (§§ 4 & 5), the Birth to Three working group (§ 2), and the study of private therapist authorization (§ 9) take effect upon passage.

§ 2 — SPECIAL EDUCATION WORKING GROUP

The bill establishes a working group to study issues relating to the provision of special education and related services during the period in which a child is no longer eligible for Birth to Three program

services (see BACKGROUND) and is not yet enrolled in kindergarten.

The working group also must review and evaluate the practices and policies of the Office of Early Childhood or local or regional boards of education that may result in a child experiencing a disruption in or cessation of services during this period.

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 passage. 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 passage. 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.

§§ 3-5 — 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 (§ 3)

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 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 and ensure that the student’s specific needs are met during an emergency situation.

Emergency Communication Plans (§§ 4 & 5)

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.

§ 6 — LANGUAGE SKILLS FOR DEAF OR HARD OF HEARING STUDENTS

The bill requires SDE to establish a working group within the

department on language assessment for students identified as deaf or hard of hearing, or both blind or visually impaired and deaf. The group must develop guidelines on (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.

§ 7 — GIFTED AND TALENTED STUDENTS

The bill requires local or regional boards of education to electronically notify parents or guardians if their child has been identified as gifted and talented. The notice must include, at a minimum, the following information:

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; (b) the SDE employee designated to provide information and assistance to families and school districts about gifted and talented students; and (c) the school district employee in charge of providing services to gifted and talented students, or, if there is no such employee, the school district employee in charge of special education and related services.

§ 8 — 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, whether provided by the magnet school itself or 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.

§ 9 — STUDY OF PRIVATE THERAPISTS PROVIDING SPECIAL EDUCATION SERVICES

The bill requires SDE's IEP Advisory Council to study by July 1, 2020, the authorization of private therapists to provide special education and related services directly to students at school during the regular school day. The study must examine issues relating to (1) including such authorization in a child's IEP and (2) using a parent's or guardian's private insurance to cover the cost of these services. SDE must submit the study and any recommendations to the Education Committee.

§ 10 — PRIVATE SPECIAL EDUCATION PROVIDER TRANSPARENCY

The bill requires any private special education provider that has a contract with a local or regional board of education to inform the board about the following:

1. all complaints received against the provider about mistreatment of students who receive special education services from the provider,
2. the resolution or outcome of such complaints and any corrective action taken as a result of such complaints, and
3. any programming or service changes as a result of a complaint for students under the board's jurisdiction.

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.

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).

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 35 Nay 0 (03/25/2019)