House of Representatives

General Assembly

File No. 707

January Session, 2025

Substitute House Bill No. 7219

House of Representatives, April 15, 2025

The Committee on Education reported through REP. LEEPER of the 132nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT PROTECTING 504 PLAN ACCOMMODATIONS FOR STUDENTS IN CONNECTICUT.

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

Section 1. (NEW) (*Effective from passage*) (a) As used in this section and section 2 of this act:

(1) "Program or activity" means all of the operations of a local or regional board of education.

(2) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots or other real or personal property or interest in such property.

(3) "Student with a disability" means any student who (A) has a physical or mental impairment that substantially limits one or more major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment.

(4) "Physical or mental impairment" means (A) any physiological

disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: (i) Neurological, (ii) musculoskeletal, (iii) special sense organs, (iv) respiratory, including speech organs, (v) cardiovascular, (vi) reproductive, (vii) digestive, (viii) genito-urinary, (ix) hemic, (x) lymphatic, (xi) skin, and (xii) endocrine, or (B) any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness and specific learning disabilities.

(5) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(6) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(7) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but that is treated by a local or regional board of education as constituting such a limitation, (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or (C) has none of the impairments described in subdivision (4) of this subsection but is treated by a local or regional board of education as having such an impairment.

(8) "Qualified student with a disability" means, with respect to public preschool, elementary, secondary or adult educational services, a student with a disability (A) of an age during which students who are not disabled are provided such services, (B) of any age during which it is mandatory under state law to provide such services to students with a disability, or (C) to whom the state is required to provide a free appropriate public education under Section 612 of the Individuals with Disabilities Education Act, 20 USC 1419, as amended from time to time.

(9) "Disability" means any condition or characteristic that renders a

student a student with a disability.

(b) No qualified student with a disability shall, solely by reason of such qualified student's disability, be excluded from the participation in, be denied the benefits of or be subjected to discrimination under any program or activity provided by a local or regional board of education. The State Board of Education may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, as may be necessary to carry out the provisions of this section and section 2 of this act.

(c) (1) No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination under any program or activity.

(2) (A) A local or regional board of education, in providing any aid, benefit or service, may not, directly or through contractual, licensing or other arrangements, on the basis of disability:

(i) Deny a qualified student with a disability the opportunity to participate in or benefit from the aid, benefit or service;

(ii) Afford a qualified student with a disability an opportunity to participate in or benefit from the aid, benefit or service that is not equal to that afforded to students who do not have a disability;

(iii) Provide a qualified student with a disability with an aid, benefit or service that is not as effective as that provided to students who do not have a disability;

(iv) Provide different or separate aid, benefits or services to qualified students with a disability or to any class of qualified students with a disability unless such action is necessary to provide qualified students with a disability with aid, benefits or services that are as effective as those provided to students who do not have a disability;

(v) Aid or perpetuate discrimination against a qualified student with a disability by providing significant assistance to an agency,

organization or person that discriminates on the basis of disability in providing any aid, benefit or service to beneficiaries of the program or activity; or

(vi) Otherwise limit a qualified student with a disability in the enjoyment of any right, privilege, advantage or opportunity enjoyed by students who do not have a disability receiving an aid, benefit or service.

(B) For purposes of this section and section 2 of this act, aids, benefits and services, to be equally effective, are not required to produce the identical result or level of achievement for qualified students with a disability and students who do not have a disability, but shall afford qualified students with a disability equal opportunity to obtain the same result, to gain the same benefit or to reach the same level of achievement, in the most integrated setting appropriate to the needs of qualified students with a disability.

(C) Despite the existence of separate or different aid, benefits or services provided in accordance with this section and section 2 of this act, a local or regional board of education may not deny a qualified student with a disability the opportunity to participate in such aid, benefits or services that are not separate or different.

(D) A local or regional board of education may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that (i) have the effect of subjecting qualified students with a disability to discrimination on the basis of disability, (ii) have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the board's program or activity with respect to qualified students with a disability, or (iii) perpetuate the discrimination of another board of education if both boards are subject to common administrative control.

(E) In determining the site or location of a facility, a local or regional board of education may not select a site that (i) has the effect of excluding qualified students with a disability from, denying them the benefits of or otherwise subjecting them to discrimination under any

program or activity, or (ii) has the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to qualified students with a disability.

(3) The exclusion of students who do not have a disability from aid, benefits or services limited by the Americans with Disabilities Act, 42 USC 12101 et seq., the Individuals with Disabilities Education Act, 20 USC 1400 et seq., as amended from time to time, or state law to qualified students with a disability or the exclusion of a specific class of qualified students with a disability from aid, benefits or services limited by said Americans with Disabilities Act, Individuals with Disabilities Education Act or state law to a different class of qualified students with a disability is not prohibited by this section or section 2 of this act.

(d) A local or regional board of education shall submit an annual assurance, on a form specified by the Commissioner of Education, that the programs or activities of such board will be operated in compliance with this section and section 2 of this act.

(e) (1) (A) If the Commissioner of Education finds that a local or regional board of education has discriminated against students on the basis of disability in violation of this section or section 2 of this act, such board shall take such remedial action as the commissioner deems necessary to overcome the effects of the discrimination.

(B) Where a local or regional board of education is found to have discriminated against students on the basis of disability in violation of this section or section 2 of this act, and where another board of education exercises control over the board of education that has discriminated, the commissioner, where appropriate, may require either or both boards to take remedial action.

(C) The commissioner may, where necessary to overcome the effects of discrimination in violation of this section or section 2 of this act, require a local or regional board of education to take remedial action (i) with respect to qualified students with a disability who are no longer participants in such board's program or activity but who were

participants in the program or activity when such discrimination occurred, or (ii) with respect to qualified students with a disability who would have been participants in the program or activity had the discrimination not occurred.

(2) A local or regional board of education may take steps, in addition to any action that is required by this section, to overcome the effects of conditions that resulted in limited participation in such board's program or activity by qualified students with a disability.

(f) (1) Each local and regional board of education shall designate at least one person to coordinate such board's efforts to comply with the provisions of this section and section 2 of this act.

(2) Each local and regional board of education shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this section or section 2 of this act.

(g) A local or regional board of education shall take appropriate initial and continuing steps to notify the parents and guardians of students enrolled in a school under the jurisdiction of such board that it does not discriminate on the basis of disability in violation of this section or section 2 of this act. The notification shall state that the board does not discriminate in admission or access to, or treatment in, its program or activity. The notification shall also include an identification of the responsible employee designated pursuant to subdivision (1) of subsection (f) of this section. Methods of notification may include the posting of such information on the Internet web site of the board and in all student handbooks and parent handbooks or manuals.

(h) The obligation to comply with this section or section 2 of this act is not obviated or alleviated by the existence of any other state or local law or other requirement that, on the basis of disability, imposes prohibitions or limits upon the eligibility of qualified students with a disability to receive services.

Sec. 2. (NEW) (*Effective from passage*) (a) The provisions of this section and section 1 of this act apply to preschool, elementary, secondary and adult education programs or activities provided or offered by a local or regional board of education.

(b) A local or regional board of education that operates a program or activity shall annually (1) undertake to identify and locate every qualified student with a disability residing in such board's jurisdiction who is not receiving a public education, and (2) take appropriate steps to notify such qualified students with a disability and their parents or guardians of such board's duty under this section.

(c) (1) A local or regional board of education that operates a program or activity shall provide a free appropriate public education to each qualified student with a disability who is in such board's jurisdiction, regardless of the nature or severity of the student's disability.

(2) (A) For the purpose of this section, the provision of an appropriate education is the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of qualified students with a disability as adequately as the needs of students who do not have a disability are met, and (ii) are based upon adherence to procedures that satisfy the requirements of subsections (d) to (f), inclusive, of this section.

(B) Implementation of an individualized education program developed in accordance with the Individuals with Disabilities Education Act, 20 USC 1419, as amended from time to time, and sections 10-76a to 10-76g, inclusive, of the general statutes, is one means of meeting the standard established in subparagraph (A) of this subdivision.

(C) A local or regional board of education may place a qualified student with a disability or refer such qualified student with a disability for aid, benefits or services other than those that it operates or provides as its means of carrying out the requirements of this section, provided such board remains responsible for ensuring that the requirements of

this section are met with respect to any qualified student with a disability so placed or referred.

(3) (A) For the purpose of this subsection, the provision of a free education is the provision of educational and related services without cost to the qualified student with a disability or to the parents or guardian of such qualified student with a disability, except for those fees that are imposed on students who do not have a disability or their parents or guardian. It may consist either of the provision of free services or, if a local or regional board of education places a qualified student with a disability or refers such qualified student with a disability for aid, benefits or services not operated or provided by such board as its means of carrying out the requirements of this section, of payment for the costs of the aid, benefits or services. Funds available from any public or private agency may be used to meet the requirements of this section. Nothing in this subsection shall be construed to relieve an insurer or similar third party from an otherwise valid obligation to provide or pay for services provided to a qualified student with a disability.

(B) If a local or regional board of education places or refers a qualified student with a disability for aid, benefits or services not operated or provided by such board as its means of carrying out the requirements of this section, such board shall ensure that adequate transportation to and from the aid, benefits or services is provided at no greater cost than would be incurred by such qualified student with a disability or the parents or guardian of such qualified student with a disability if such qualified student with a disability were placed in the aid, benefits or services operated by such board of education.

(C) If a public or private residential placement is necessary to provide a free appropriate public education to a qualified student with a disability because of such qualified student's disability, the placement, including nonmedical care and room and board, shall be provided at no cost to such qualified student with a disability or the parents or guardian of such qualified student with a disability.

(D) If a local or regional board of education has made available, in conformance with the requirements of this subsection and subsection (d) of this section, a free appropriate public education to a qualified student with a disability, and the parents or guardian of such qualified student with a disability choose to place such qualified student with a disability in a private school, such board is not required to pay for such qualified student's education in the private school. Disagreements between a parent or guardian and a local or regional board of education regarding whether such board has made a free appropriate public education available or otherwise regarding the question of financial responsibility are subject to the due process procedures of subsection (f) of this section.

(4) A local or regional board of education may not exclude any qualified student with a disability from a public elementary or secondary education.

(d) (1) A local or regional board of education to which this section applies shall educate, or shall provide for the education of, each qualified student with a disability in its jurisdiction with students who do not have a disability to the maximum extent appropriate to the needs of the qualified student with a disability. A local or regional board of education shall place a qualified student with a disability in the regular educational environment operated by such board unless it is demonstrated by such board that the education of the qualified student with a disability in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. Whenever a local or regional board of education places a qualified student with a disability in a setting other than the regular educational environment pursuant to this subsection, it shall take into account the proximity of the alternate setting to the home of such qualified student with a disability.

(2) In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods and the services and activities set forth in subparagraph (B) of

subdivision (1) of subsection (g) of this section, a local or regional board of education shall ensure that qualified students with a disability participate with students who do not have a disability in such activities and services to the maximum extent appropriate to the needs of the qualified student with a disability in question.

(3) If a local or regional board of education, in compliance with subdivision (1) of this subsection, operates a facility that is identifiable as being for qualified students with a disability, such board shall ensure that the facility and the services and activities provided in the facility are comparable to the other facilities, services and activities of such board.

(e) (1) A local or regional board of education that operates a public elementary or secondary education program or activity shall conduct an evaluation in accordance with the requirements of subdivision (2) of this subsection of any student who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial placement of the student in regular or special education and any subsequent significant change in placement.

(2) A local or regional board of education to which this section applies shall establish standards and procedures for the evaluation and placement of students who, because of disability, need or are believed to need special education or related services that ensure that:

(A) Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;

(B) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; and

(C) Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual

or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills, except where such skills are the factors that the test purports to measure.

(3) In interpreting evaluation data and in making placement decisions, a local or regional board of education shall (A) draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background and adaptive behavior, (B) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (C) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data and the placement options, and (D) ensure that the placement decision is made in conformity with subsection (d) of this section.

(4) A local or regional board of education shall establish procedures, in accordance with subdivision (2) of this subsection, for periodic reevaluation of students who have been provided special education and related services, which may include, but are not limited to, a reevaluation procedure consistent with the Individuals with Disabilities Education Act, 20 USC 1419, as amended from time to time.

(f) A local or regional board of education that operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation or educational placement of students who, because of disability, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the student to examine relevant records, an impartial hearing with opportunity for participation by such student's parents or guardian and representation by counsel and a review procedure, which may include, but are not limited to, compliance with the procedural safeguards of the

Individuals with Disabilities Education Act, 20 USC 1419, as amended from time to time.

(g) (1) (A) A local or regional board of education shall provide nonacademic and extracurricular services and activities in such manner as is necessary to afford qualified students with a disability an equal opportunity for participation in such services and activities.

(B) Nonacademic and extracurricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the local or regional board of education, referrals to agencies that provide assistance to qualified students with a disability and employment of qualified students with a disability, including both employment by such board and assistance in making available outside employment.

(2) A local or regional board of education that provides personal, academic or vocational counseling, guidance or placement services to its students shall provide such services without discrimination on the basis of disability. Such board shall ensure that qualified students with a disability are not counseled toward more restrictive career objectives than are students who do not have a disability with similar interests and abilities.

(3) (A) In providing physical education courses and athletics and similar aid, benefits or services to any of its students, a local or regional board of education may not discriminate on the basis of disability. A local or regional board of education that offers physical education courses or that operates or sponsors interscholastic, club or intramural athletics shall provide to qualified students with a disability an equal opportunity for participation.

(B) A local or regional board of education may offer to qualified students with a disability physical education and athletic activities that are separate or different from those offered to students who do not have a disability only if separation or differentiation is consistent with the

requirements of subsection (d) of this section and only if no qualified student with a disability is denied the opportunity to compete for teams or participate in courses that are not separate or different.

(h) A local or regional board of education that provides preschool education or child care services, as described in section 19a-77 of the general statutes, or adult education may not, on the basis of disability, exclude qualified students with a disability and shall take into account the needs of such qualified students with a disability in determining the aid, benefits or services to be provided.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	New section
Sec. 2	*from passage*	New section

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:

Agency Affected	Fund-Effect	FY 26 $	FY 27 $
Education, Dept.	GF - Cost	131,000	131,000
State Comptroller - Fringe Benefits[1]	GF - Cost	53,400	53,400

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a cost annually to the General Fund, primarily in the State Department of Education (SDE), of $184,400 beginning in FY 26. It conforms state statute with federal law regarding legal protections for students with disabilities and allows SDE to enforce those protections.

It is anticipated SDE will have to hire one full-time Education Consultant (annual salary of $131,000 and $53,400 in corresponding fringe benefits) to pursue and investigate allegations of noncompliance. Additional staffing costs may be necessary depending on the volume of complaints and federal developments.

The bill does not have a fiscal impact for local and regional school districts as they must already meet the bill's requirements under federal law (section 504).

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.71% of payroll in FY 26.

The Out Years

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

OLR Bill Analysis

sHB 7219

AN ACT PROTECTING 504 PLAN ACCOMMODATIONS FOR STUDENTS IN CONNECTICUT.

SUMMARY

In effect, this bill creates state level protections for students with disabilities that generally mirror those under the federal Section 504 law and regulations (see BACKGROUND). These protections apply in addition to state special education law, which conforms to the federal Individuals with Disabilities Education Act (IDEA). Existing state law, unchanged by the bill, gives students an equal opportunity to participate in public school activities, programs, and courses of study without discrimination based on disability (CGS § 10-15c).

By incorporating requirements from Section 504 and related regulations (hereafter Section 504) into state law, the bill adds provisions to state law that require local and regional school boards to provide students with disabilities, as defined in the bill, with a free appropriate public education (FAPE) that meets their needs as adequately as the needs of students without disabilities are met. It also creates related protections.

As is the case with Section 504, the bill's provisions overlap to some extent with other existing requirements, including IDEA and corresponding state special education laws. However, the bill, like Section 504, applies to a wider scope of students with disabilities than IDEA (see BACKGROUND).

The bill specifies that a school board's obligation to comply with the bill's requirements is not negated by any other state or local law or other requirement that, based on disability, imposes prohibitions or limits on the eligibility of students with disabilities to receive services. (Section

504 contains a corresponding provision on compliance regardless of inconsistent state laws.)

EFFECTIVE DATE: Upon passage

STUDENT WITH A DISABILITY, DEFINED

The bill adopts the same disability-related definitions that apply under Section 504. Specifically, under the bill, a "student with a disability" is one who:

1. has a physical or mental impairment that substantially limits at least one major life activity (e.g., self-care, walking, speaking, and learning);

2. has a history of such an impairment that substantially limits a major life activity, or was misclassified as having one (i.e. "has a record of an impairment"); or

3. is regarded as having an impairment.

The bill further defines "physical or mental impairment" as any (1) physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting at least one body system (e.g., neurological, musculoskeletal, and respiratory) or (2) mental or psychological disorder (e.g., intellectual disability or specific learning disability).

Under the bill, a student is "regarded as having an impairment" if he or she has (1) an impairment that does not substantially limit a major life activity, but is treated by a school board as though it does; (2) an impairment that does substantially limit a major life activity, but only because of others' attitudes toward the impairment; or (3) no impairment, but is treated by a school board as though he or she has one.

DISCRIMINATORY ACTIONS BROADLY PROHIBITED

Like Section 504, the bill protects students with disabilities from discrimination, on the basis of the disability, under any program or activity offered by a school board and prohibits denying these students

the benefits of the program or activity or excluding their participation. The bill requires school boards to annually submit an assurance, on a form the education commissioner specifies, that their programs and activities will be operated in compliance with the bill. (Under federal Section 504 regulations, school boards and the State Department of Education (SDE) must submit similar assurances in connection with receipt of federal funds.)

Under the bill, each school board must take appropriate and ongoing steps to notify parents and guardians of enrolled students that it does not discriminate based on disability in admission or access to, or treatment in, its programs or activities. The notification must identify the designated compliance coordinator (see below) and may be given by posting information on the school board's website, in student handbooks, and in parent handbooks or manuals.

Provision of Aid, Benefits, and Services

The bill specifically prohibits school boards, when providing aid, benefits, or services, from doing the following on the basis of disability:

1. denying a student with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

2. giving a student with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that given to students without a disability;

3. giving a student with a disability an aid, benefit, or service that is not as effective as that given to students without disabilities;

4. giving students with disabilities different or separate aid, benefits, or services, unless doing so is necessary to give the students aid, benefits, or services that are as effective as those given to students without disabilities;

5. aiding or perpetuating discrimination against a student with a disability by significantly assisting an agency, organization, or

person that discriminates on the basis of disability; and

6. otherwise limiting a student with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by students without a disability receiving an aid, benefit, or service.

Under the bill, these prohibitions apply to actions the board takes directly and those taken through contractual, licensing, or other arrangements.

The bill specifies that even if a school board provides separate or different aid, benefits, or services that meet the bill's requirements, it may not deny a student with disabilities the opportunity to participate in the aid, benefits, and services that are not separate or different.

Discriminatory Criteria or Administrative Methods

The bill prohibits school boards from directly or through contractual or other arrangements using criteria or methods of administration that:

1. effectively subject students with disabilities to discrimination on the basis of disability;

2. defeat or substantially impair accomplishment of the board's program or activity objectives with regard to students with disabilities, whether intentionally or in effect; or

3. perpetuate another school board's discrimination, if both boards are subject to common administrative control.

Site Selection for Facilities, Generally

Under the bill, a school board may not select a facility location or site that (1) effectively excludes students with disabilities from, denies them the benefits of, or otherwise subjects them to discrimination under a program or activity or (2) defeats or substantially impairs accomplishment of the board's program or activity with regard to students with disabilities, whether intentionally or in effect.

Under the bill, a "facility" is all or a portion of a building, structure,

equipment, road, walk, parking lot, or other real or personal property or interest in such property.

Exceptions and Limitations

Equally Effective Standard. As Section 504 does, the bill specifies that aids, benefits, and services do not need to produce identical results or achievement for students with and without disabilities to be considered equally effective. Instead, they must give students with disabilities equal opportunity to get the same result, gain the same benefit, or reach the same achievement level in the most integrated setting appropriate to the student's needs.

Exclusion of Certain Students Permitted. The bill specifies that it does not prohibit the following:

1. excluding students who do not have a disability from aid, benefits, or services that are limited to students with disabilities pursuant to IDEA, the Americans with Disabilities Act (ADA), or state law or

2. excluding a specific class of students with disabilities from aid, benefits, or services limited to a different class of students with disabilities under those laws.

REQUIREMENT TO PROVIDE FAPE

As under Section 504, school boards must provide FAPE to each student with a disability within the board's jurisdiction, regardless of the disability's nature or severity. Under the bill, FAPE is the provision of regular or special education and related services that (1) is designed to meet individual needs of students with disabilities as adequately as the needs of students without disabilities are met and (2) adheres to procedures meeting the bill's requirements (e.g., on selecting the educational setting, see below).

FAPE under Section 504 and the bill is different than under IDEA (see BACKGROUND). But the bill specifies that implementing an individualized education program (IEP) under IDEA and the

corresponding state law meets the bill's requirements.

The bill allows school boards to place or refer students with disabilities for aid, benefits, or services it does not operate in order to fulfill its obligations under the bill, but the board remains responsible for ensuring the bill's requirements are met.

Identifying Eligible Students

The bill requires school boards that operate preschool, elementary, secondary, and adult education programs to annually make an effort to identify and locate every student with a disability residing in the board's jurisdiction who is not receiving a public education and take appropriate steps to notify the students and their parents or guardians of the board's education-specific duties under the bill.

Free Education

Under the bill, school boards must provide FAPE without cost to students or their parents or guardians, either directly through services they provide or by paying the cost of services provided by another entity. However, they may charge fees to students with disabilities that are also charged to those without them. The bill specifies that it does not relieve an insurer or similar third party from an otherwise valid obligation to pay for services for a student with a disability. Boards may use funds from any public or private agency to meet their obligations.

School boards that refer students with disabilities to programs or services they do not operate must ensure adequate transportation for the students at no greater cost to the parent or student than they would incur if the board operated the program. If a residential placement is necessary to provide FAPE, the placement, including nonmedical care and room and board, must be provided at no cost to the student or their parents or guardians.

The bill specifies, however, that if a school board has made FAPE available to a student with a disability but his or her parent or guardian places the student in a private school, the school board is not required to pay for the private school. Disputes over the provision of FAPE or of

financial responsibility are subject to the due process provisions (see below).

EVALUATION

Under the bill (as under Section 504), school boards that operate a public elementary or secondary education program or activity must evaluate students who may need special education because of a disability before taking any action related to placement. The boards must establish standards to ensure that tests and evaluation materials they use:

1. are valid for the specific purpose for which they are used and administered by trained personnel in conformance with the instructions provided by their producer;

2. include ones tailored to assess specific areas of educational need and not just ones designed to provide a single general intelligence quotient;

3. are selected and administered so results accurately reflect the student's aptitude, achievement level, or other measure, rather than reflecting any impaired sensory, manual, or speaking skills (except where such skills are the factors being measured).

School boards must also establish procedures for periodically reevaluating students who have been given special education and related services, which may include a reevaluation procedure consistent with IDEA.

EDUCATIONAL SETTING

Under the bill (as under Section 504), school boards must educate, or provide for education of, each student with a disability with their nondisabled peers to the maximum extent appropriate to the needs of the student with a disability. School boards must place a student with a disability in the general education classroom unless they demonstrate that they cannot effectively educate the student by using accommodations and other supplementary aids in the general

education environment.

Additionally, school boards must ensure that students with disabilities can participate in nonacademic and extracurricular activities it provides (e.g., meals and recess) with their nondisabled peers to the maximum extent appropriate to the needs of the student with a disability.

Placement Procedures

When interpreting evaluations and making placement decisions, the bill requires school boards to:

1. use information from a variety of sources (e.g., aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior);

2. establish procedures to ensure documentation and careful consideration of all the sources;

3. ensure that the placement decision is made by a group that includes people knowledgeable about the student, the evaluation data, and the placement options; and

4. ensure that the placement complies with the requirement to place students in the general education environment as much as possible.

If a school board places a student with a disability in a setting other than the general education environment, it must take into account the location and the proximity to the student's home.

If a school board operates a facility that is identifiable as being for students with disabilities, it must ensure that the facility and available services and activities are comparable to the board's other facilities, services, and activities.

NONACADEMIC SERVICES

The bill, like Section 504, requires school boards to provide

nonacademic and extracurricular services and activities in way that gives students with disabilities an equal opportunity to participate, including counseling services, recreational activities, and referrals to assistance agencies, among other things.

If a school board offers personal, academic, or vocational counseling, guidance, or placement to students, it must ensure that students with disabilities are not counseled toward more restrictive objectives than students without disabilities.

Under the bill, school boards may not discriminate on the basis of disability when providing physical education courses, athletics, and similar aid, benefits, or services and must afford students with disabilities an equal opportunity for participation. School boards may offer students with disabilities physical education and athletics that are separate or different from those for nondisabled students, but only if the separation complies with the bill's placement requirements and a student with a disability is not denied the opportunity to compete or participate on teams and in courses that are not different.

PRESCHOOL, CHILD CARE, AND ADULT EDUCATION

As under Section 504, the bill specifies that school boards providing preschool, child care services, or adult education may not exclude students with disabilities based on their disability and must take into account the needs of students with disabilities when determining the aid, benefits, or services they will provide.

COMPLIANCE COORDINATOR AND COMPLAINT PROCEDURE

As under Section 504, the bill requires school boards to designate at least one person to coordinate the board's efforts to comply with the bill's provisions. Each board must adopt due process standards that provide for prompt and equitable resolution of complaints alleging violations of the bill's requirements.

PROCEDURAL SAFEGUARDS

Under the bill, as under Section 504, school boards with elementary or secondary education programs must establish and implement certain

procedural safeguards pertaining to the identification, evaluation, and placement of students who need or may need special instruction or related services. The safeguards must include (1) notice requirements, (2) an opportunity for parents or guardians to examine records, (3) an impartial hearing with the opportunity for parent or guardian participation and representation by counsel, and (4) a review procedure.

Compliance may include, but is not limited to, using the procedural safeguards required under IDEA.

REMEDIAL ACTION ORDERED BY SDE & VOLUNTARY ACTION

The bill creates an enforcement framework that is similar to the one the federal Department of Education's Assistant Secretary for Civil Rights uses to enforce Section 504. Under the bill, if the SDE commissioner finds that a school board discriminated against students with disabilities on the basis of disability in violation of the bill, the board must take remedial action that the commissioner deems appropriate to overcome the discrimination's effects. The commissioner may require the board to take remedial action, if necessary, with respect to students who (1) no longer participate in the board's programs or activities but were there when the discrimination occurred or (2) would have been participants had the discrimination not happened.

Under the bill, if another board of education exercises control over the school board in violation, the commissioner may require either or both boards to take remedial action.

Like Section 504, the bill also specifically allows school boards to take voluntary actions to overcome the effects of conditions that resulted in the limited participation of students with disabilities in the board's programs or activities.

BACKGROUND

IDEA Compared to Section 504

IDEA is the main federal law governing special education (20 U.S.C. § 1400 et seq.; 34 C.F.R. § 300.1 et seq.). It authorizes grants to states and school districts and attaches a series of conditions to funding, which

states agree to adhere to by accepting funding. IDEA guarantees students with qualifying disabilities the right to FAPE that is tailored to their unique needs and implemented under a planning document called an IEP. It also requires school districts to identify and evaluate students who may need special education, educate students with disabilities with their nondisabled peers to the maximum extent possible, and follow certain procedural safeguards, among other things.

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.) protects individuals with disabilities from discrimination in programs and activities that receive federal financial assistance, including public elementary and secondary schools and some private schools. This law and the plans commonly used to implement it (504 plans) are different from IDEA and IEPs. While IDEA guarantees individually tailored education services for students with disabilities (i.e. special education), Section 504 is a broad civil rights law that aims to eliminate barriers to a student's access to FAPE by providing reasonable accommodations.

Definition of Disability Under IDEA

IDEA's definition of disability is categorical and education-specific. To be a "child with a disability" under IDEA (and thus qualify for special education services), a child must (1) have a disability that falls under one of the enumerated categories and (2) need special education and related services because of the disability. The categories are: autism, deaf-blindness, hearing impairment (including deafness), intellectual disability, developmental delay (for certain ages), orthopedic impairment, serious emotional disturbance, specific learning disability, speech or language impairment, traumatic brain injury, vision impairment, multiple disabilities, and other health impairment (20 U.S.C. § 1401 (3); 34 C.F.R. § 300.8(c)).

Planning for FAPE Under IDEA and Section 504

The term "FAPE" is used in the context of both IDEA and Section 504.

FAPE under Section 504 is focused on discrimination protections and

equal access to educational opportunities for students with disabilities. By contrast, FAPE under IDEA is an entitlement, giving qualifying students with disabilities the right to individualized instruction and related services tailored specifically to their needs and to ensure an educational benefit.

While IDEA involves special education and related services provided through an IEP, in practice, FAPE under Section 504 typically involves providing reasonable accommodations and modifications for students with disabilities in the general education classroom. Generally, Section 504 is applied to ensure that students who may not need an IEP still receive the supports they require to fully participate in school. Unlike under IDEA, Section 504 does not require schools to write down the accommodations or modifications it will provide students in a formal plan; however, in practice, Connecticut schools develop "504 plans" to ensure compliance with the law.

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute
Yea 42 Nay 0 (03/28/2025)