General Assembly

Raised Bill No. 7219

January Session, 2025

LCO No. **6264**

Referred to Committee on EDUCATION

Introduced by:
(ED)

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, the Technical Education and Career System, the Department of Education, the Office of Early Childhood or other instrumentality of the state or of a local government.

(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) "Handicapped student" 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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood 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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood as having such an impairment.

(8) "Qualified handicapped student" means, with respect to public preschool, elementary, secondary or adult educational services, a handicapped student (A) of an age during which nonhandicapped persons are provided such services, (B) of any age during which it is

mandatory under state law to provide such services to handicapped students, 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) "Handicap" means any condition or characteristic that renders a student a handicapped student.

(b) No qualified handicapped student shall, solely by reason of such qualified handicapped 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 or any program or activity conducted by the Technical Education and Career System, the Department of Education or the Office of Early Childhood. 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 handicapped student shall, on the basis of handicap, 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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood, in providing any aid, benefit or service, may not, directly or through contractual, licensing or other arrangements, on the basis of handicap:

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

(ii) Afford a qualified handicapped student an opportunity to participate in or benefit from the aid, benefit or service that is not equal to that afforded nonhandicapped students;

(iii) Provide a qualified handicapped student with an aid, benefit or service that is not as effective as that provided to nonhandicapped students;

(iv) Provide different or separate aid, benefits or services to qualified handicapped students or to any class of qualified handicapped students unless such action is necessary to provide qualified handicapped students with aid, benefits or services that are as effective as those provided to nonhandicapped students;

(v) Aid or perpetuate discrimination against a qualified handicapped student by providing significant assistance to an agency, organization or person that discriminates on the basis of handicap in providing any aid, benefit or service to beneficiaries of the program or activity;

(vi) Deny a qualified handicapped student the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped student in the enjoyment of any right, privilege, advantage or opportunity enjoyed by nonhandicapped students 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 handicapped students and nonhandicapped students, but shall afford qualified handicapped students 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 qualified handicapped student's needs.

(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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood may not deny a qualified handicapped student the

opportunity to participate in such aid, benefits or services that are not separate or different.

(D) A local or regional board of education, the Technical Education and Career System, the Department of Education or the Office of Early Childhood may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that (i) have the effect of subjecting qualified handicapped students to discrimination on the basis of handicap, (ii) have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the board, system, department or office's program or activity with respect to qualified handicapped students, 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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood may not select a site that (i) has the effect of excluding qualified handicapped students 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 handicapped students.

(F) As used in this subsection, the aid, benefit or service provided under a program or activity includes any aid, benefit or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with state or federal financial assistance, including pursuant to chapter 173 of the general statutes.

(3) The exclusion of nonhandicapped students from aid, benefits or services limited by federal statute or executive order to handicapped students or the exclusion of a specific class of handicapped students

from aid, benefits or services limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this section or section 2 of this act.

(d) (1) A local or regional board of education, the Technical Education and Career System, the Department of Education or the Office of Early Childhood shall submit an assurance, on a form specified by the Commissioner of Education, that the program or activity will be operated in compliance with this section and section 2 of this act.

(2) (A) In the case of state or federal financial assistance extended in the form of real property or to provide real property or structures on the property, the assurance shall obligate the local or regional board of education, Technical Education and Career System, Department of Education or Office of Early Childhood, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which state or federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(B) In the case of state or federal financial assistance extended to provide personal property, the assurance shall obligate the local or regional board of education, Technical Education and Career System, Department of Education or Office of Early Childhood for the period during which it retains ownership or possession of the property.

(C) In all other cases the assurance will obligate the local or regional board of education, Technical Education and Career System, Department of Education or Office of Early Childhood for the period during which state or federal financial assistance is extended.

(3) (A) Where state or federal financial assistance is provided in the form of real property or interest in the property, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the state or federal financial

assistance is extended or for another purpose involving the provision of similar services or benefits.

(B) Where no transfer of property is involved but property is purchased or improved with state or federal financial assistance, the recipient shall agree to include the covenant described in subparagraph (B) of subdivision (2) of subsection (d) of this section, in the instrument effecting or recording any subsequent transfer of the property.

(C) Where state or federal financial assistance is provided in the form of real property or interest in the property, the covenant shall also include a condition coupled with a right to be reserved by the state to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Commissioner of Education may, upon request of the transferee and if necessary to accomplish such financing and upon such conditions as the commissioner deems appropriate, agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective.

(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 handicap 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 handicap 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 handicapped students 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 handicapped students 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 handicapped students.

(3) (A) A local or regional board of education shall, not later than one year after the effective date of this section:

(i) Evaluate, with the assistance of interested persons, including handicapped students or organizations representing handicapped students, its current policies and practices and the effects thereof that do not or may not meet the requirements of this section or section 2 of this act;

(ii) Modify, after consultation with interested persons, including handicapped students or organizations representing handicapped students, any policies and practices that do not meet the requirements of this section or section 2 of this act; and

(iii) Take, after consultation with interested persons, including handicapped students or organizations representing handicapped students, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to such policies and practices.

(B) A local or regional board of education shall, for at least three years

following completion of the evaluation required under subparagraph (A) of subdivision (3) of this subsection, maintain on file, make available for public inspection and provide to the commissioner upon request (i) a list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

(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) (1) 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 handicap in violation of this section or section 2 of this act. The notification shall state, where appropriate, 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. A local or regional board of education shall make the initial notification required by this subdivision not later than ninety days after the effective date of this section. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in such board's publication and distribution of memoranda or other written communications.

(2) If a local or regional board of education publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants or

employees, it shall include in those materials or publications a statement of the policy described in subdivision (1) of this subsection. A local or regional board of education may meet the requirement of this subdivision either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

(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 handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped students 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, the Technical Education and Career System, the Department of Education or the Office of Early Childhood.

(b) A local or regional board of education that operates a program or activity shall annually (1) undertake to identify and locate every qualified handicapped student residing in such board's jurisdiction who is not receiving a public education, and (2) take appropriate steps to notify handicapped students 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 handicapped student who is in such board's jurisdiction, regardless of the nature or severity of the student's handicap.

(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 handicapped students as adequately as the needs of nonhandicapped students 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, is one means of meeting the standard established in subparagraph (A) of subdivision (1) of this subsection.

(C) A local or regional board of education may place a handicapped student or refer such student 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 handicapped student 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 handicapped student or to such student's parents or guardian, except for those fees that are imposed on nonhandicapped students 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 handicapped student or refers such handicapped student 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 handicapped student.

(B) If a local or regional board of education places a handicapped student or refers such handicapped student 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 handicapped student or such handicapped student's parents or guardian if such handicapped student 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 handicapped student because of such student's handicap, the placement, including nonmedical care and room and board, shall be provided at no cost to such student or such student's parents or guardian.

(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 handicapped student and such handicapped student's parents or guardian choose to place such handicapped student in a private school, such board is not required to pay for such handicapped 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 handicapped student 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 handicapped student in its jurisdiction with nonhandicapped students to the maximum extent appropriate to the needs of the qualified handicapped student. A local or regional board of education shall place a handicapped student in the regular educational environment operated by such board unless it is demonstrated by such

board that the education of the qualified handicapped student 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 handicapped student 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 qualified handicapped student's home.

(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 handicapped students participate with nonhandicapped students in such activities and services to the maximum extent appropriate to the needs of the qualified handicapped student 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 handicapped students, 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 handicap, 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 handicap, 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 handicap, 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 handicapped students 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 handicapped students and employment of qualified handicapped students, 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 handicap. Such board shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives

than are nonhandicapped students 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 handicap. 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 handicapped students an equal opportunity for participation.

(B) A local or regional board of education may offer to qualified handicapped students physical education and athletic activities that are separate or different from those offered to nonhandicapped students only if separation or differentiation is consistent with the requirements of subsection (d) of this section and only if no qualified handicapped student is denied the opportunity to compete for teams or to 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 handicap, exclude qualified handicapped students and shall take into account the needs of such qualified handicapped students 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

Statement of Purpose:
To codify the provisions of Section 504 of the Rehabilitation Act of 1973 and those relevant accompanying regulations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]