General Assembly **Substitute Bill No. 7219**

January Session, 2025

HB07219ED 033125

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.*