
OLR Bill Analysis

sHB 6883

AN ACT CONCERNING STUDENTS WITH DEVELOPMENTAL DISABILITIES.

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BACKGROUND

SUMMARY

This bill makes various changes in the special education statutes, specifically those that govern special education dispute resolution (i.e., mediation and administrative hearings) and transition services. "Transition services" are for students who require special education to facilitate their transition from school to postsecondary activities, such as education and training, employment, or independent living. These services are provided by "public transition programs," operated by boards of education or regional education service centers (RESCs) for students ages 18 to 22, based on the goals in their individualized education program (IEP).

The bill also creates two new offices within the State Department of Education's (SDE) Bureau of Special Education to oversee these areas of

law: the Office of Transition Services and the Office of Mediation Services. It also requires boards of education to create a districtwide position to oversee transition services. This “transition coordinator” helps parents and students navigate the transition resources, services, and programs available for eligible students.

The bill also makes conforming changes. A section-by-section analysis appears below.

EFFECTIVE DATE: July 1, 2023, except the provisions on interagency coordination of transition services (§ 2) take effect on January 1, 2024.

§ 1 — OFFICE OF TRANSITION SERVICES

Creates OTS within SDE to oversee interagency coordination of transition services and create minimum services standards, among other things; requires two full-time SDE staff for the office

The bill creates the Office of Transition Services (OTS) within SDE’s Bureau of Special Education and requires the education commissioner to hire at least two full-time staff, within available appropriations, to carry out its duties. Specifically, the bill assigns the new office the following duties:

1. overseeing the coordination of state agencies’ transition resources, services, and programs, including SDE and the Developmental Services (DDS), Aging and Disability Services (ADS), Mental Health and Addiction Services (DMHAS), and Children and Families (DCF) departments;
2. establishing minimum standards for public transition programs and metrics for measuring them;
3. performing unannounced site visits of public transition programs to (a) determine their effectiveness and suggest improvements and (b) post data on its website about how the program measured against the office’s minimum standards;
4. developing a course on SDE’s website for educators and school staff who do not provide transition services to inform them about the services and these programs’ purpose, essential

- programming, and deadlines;
5. establishing minimum standards for training transition coordinators;
 6. maintaining a record of each transition coordinator's training program completion;
 7. establishing best practices for providing transition services and distributing them to each transition coordinator; and
 8. developing, and updating as needed, an online and (in the office's discretion) in-person training program on the legal requirements and best practice recommendations for special education and transition services.

§ 2 — INTERAGENCY COORDINATION OF TRANSITION SERVICES

Adds OTS to the list of state entities that must collaboratively coordinate providing transition services; requires the entities to maintain an online list of services and programs

Under current law, the State Board of Education (SBE), in collaboration with DDS, the Bureau of Rehabilitation Services (BRS), and the Office of Workforce Strategy, must coordinate the provision of transition resources, services, and programs to children requiring special education and related services. The bill requires OTS to lead the interagency coordination with SBE. It also makes the following modifications to current law's coordination requirements for these agencies:

1. removes the requirement that they work together to create and update a fact sheet listing and describing the state agencies' transition resources, services, and programs they provide;
2. adds a requirement that they develop and maintain an easily accessible and navigable online listing of the transition resources, services, and programs each provides, including a plain language description, eligibility requirements, and application deadlines for each one;

3. requires that SBE, beginning with the 2024-25 school year, annually distribute a notice to boards of education for parents, teachers, administrators, and board members about the new online listing, rather than distributing the discontinued fact sheet; and
4. makes other related conforming changes.

The bill makes a corresponding change, requiring each local or regional board of education to distribute the notice of the online listing annually, instead of the discontinued fact sheet. Boards must distribute it to parents, guardians, or surrogate parents at a planning and placement team (PPT) meeting for each child in grades six through 12 requiring special education services.

§§ 3 & 4 — TRAINING PROGRAM

Requires SDE to work with other state entities and RESCs to develop a training program on public transition programs

Development

The bill requires SDE, in consultation with DDS, BRS, and the RESCs, to develop a training program that complies with OTS's minimum standards for public transition programs by January 1, 2024 (see § 1 above).

Providers

Under the bill, each RESC must provide the training program at no cost to certain employees of its member school districts.

Enrollment

The bill requires the following individuals to enroll in the training program:

1. transition coordinators, who must enroll within three years after the district's RESC begins offering it, so long as each new appointee within this three-year period completes the program within one year after being appointed, and
2. each educator and school staff who provides transition services,

who must enroll during the five years after the district’s RESC begins offering it, so long as the person completes the program within one year after being hired to provide these services.

Also, the bill allows, but does not require, any other educators or school staff interested in becoming a transition coordinator or providing these services to enroll in the program. It does not specify a required timeline for their enrollment.

§ 4 — DISTRICT TRANSITION COORDINATOR

Requires each board of education to appoint a transition coordinator for the district

The bill requires each local and regional board of education to appoint a transition coordinator by January 1, 2024. It allows either the district’s pupil personnel director to serve in the position or another board employee appointed by the director. Every transition coordinator must ensure that the parents of students requiring special education (1) receive information about transition resources, services, or programs and (2) are aware of the eligibility requirements and application details that specifically apply to their student.

§§ 5-9 — AGE FOR SPECIAL EDUCATION ELIGIBILITY

Aligns special education statutes to a federal court ruling requiring boards of education to provide special education until an eligible student graduates high school or until the end of the school year when the student reaches age 22

The bill makes changes in various special education laws to align with the ruling in the class action lawsuit *A.R. v. Connecticut State Board of Education*. In this case, the Second Circuit of the U.S. Court of Appeals affirmed the U.S. District Court for the District of Connecticut’s ruling that special education eligibility cannot end when a student turns 21 (5 F.4th 155 (2d Cir., 2021)).

Specifically, these conforming changes affect special education laws by doing the following:

1. requiring local and regional boards of education to provide special education until the student graduates from high school or until the end of the school year when the child reaches age 22 (rather than until age 21 as under current law), whichever occurs

- first (§§ 5 & 7);
2. requiring SBE to state in its “special education bill of rights for parents” that they have the right to ask the board to consider providing their child with transition services if the child is ages 18 to 22, rather than 18 to 21 (§ 6);
 3. requiring that the liaison between a school district and the criminal justice system assist all relevant educational service providers in ensuring that people in justice system custody age 22 or younger, rather than 21 or younger, are promptly evaluated for special education services eligibility (§ 8);
 4. defining the term “child” in special education law to mean any person age 22 or younger, rather than age 21 or younger (§ 9); and
 5. removing an obsolete reference to state regulations that limit a student’s special education eligibility age to 21 years old (§ 10).

§ 11 — COMPETITIVE GRANT PROGRAM

Requires SDE to create a competitive grant program to help fund innovative public transition programs

The bill requires SDE to create a new competitive grant program to help fund the development of innovative public transition programs by local and regional boards of education and RESCs. Potential recipients must submit their grant applications annually to the education commissioner according to her chosen timeline and format. The commissioner must consider at least the following factors when determining grant awards:

1. the public transition program’s innovative nature,
2. the potential number of students the program could serve,
3. the applicant’s relative wealth, and
4. the number of school districts that the grant application includes.

The bill authorizes the commissioner to require grant repayment to the state if she finds that any grant awarded is being used for purposes other than developing or providing innovative public transition services.

The bill also requires grantees to submit to SDE, in a manner she provides, reports and financial statements, including an evaluation of their own public transition program and any new recommendations for best practices for this type of program.

§§ 12 & 17 — REVIEW BY STATE ENTITIES

Requires SERC to conduct a program-level review and the state auditors to conduct an interagency-level review

Under the bill, the State Education Resource Center (SERC) must conduct a program-level review of transition services, and the Auditors of Public Accounts (“state auditors”) must conduct an interagency-level review of the coordinated provision of services.

SERC Review (§ 12)

The bill requires SERC to review each public transition program by examining at least the following aspects:

1. each program’s type of transition services,
2. staff numbers and qualifications,
3. program location relative to the student’s or student’s family’s residence, and
4. any metrics for measuring the program’s performance (e.g., student and family feedback; student placement in jobs, postsecondary education, or adult training or programs).

State Auditor Review (§ 17)

The bill requires the state auditors to study the cooperation level between state agencies that provide transition services (i.e., SDE, DDS, ADS, DMHAS, and DCF). The study must at least examine any (1) barriers to state agency cooperation and (2) system inefficiencies for the agencies providing transition services. The state auditors must report

suggestions for improving interagency cooperation and service recipient outcomes to the Education Committee by January 1, 2024.

§ 13 — TRANSLATION SERVICES

Aligns state law with federal requirements for interpreters at PPT meetings and translated IEP documents to ensure student, parent, and guardian understanding

Federal special education regulations require boards of education to ensure that the parent understands the proceedings at a PPT meeting, including arranging for an interpreter for parents whose native language is not English (34 C.F.R. § 300.322(e)). The bill aligns state law with this requirement by requiring local or regional boards of education to provide these interpreters and translated documents for students, parents, or guardians when needed or upon request.

Interpreters

The bill grants a student's parents, guardians, or surrogate parents the right to have a translator attend and participate in all portions of a PPT meeting where the student's educational program is developed, reviewed, or revised. The board of education must automatically provide a translator if there is an apparent need or if the parent, guardian, surrogate parent, or student requests one.

Translated Documents

The bill also requires boards of education to provide translations of the following documents in the primary language of the student, parent, guardian, or surrogate parent: (1) a student's IEP and any related documents and (2) any relevant information about IEPs that SDE creates, including information about transition resources and services for high school students. Boards must supply translated documents automatically if there is an apparent need or upon request.

§ 13 — INFORMATION FOR PARENTS AND GUARDIANS

Requires boards of education to give parents, guardians, or surrogate parents information about conservatorship and mediation services

The bill requires local or regional boards of education to give the following information at the following times to parents, guardians, or surrogate parents of students who are eligible for special education and

related services:

1. at the first PPT meeting after a student reaches age 17, laws relating to becoming a conservator for a student who may have an intellectual disability by applying to the probate court and
2. in writing at the beginning of the school year, and read aloud at the end of each school year's first PPT meeting, the notice created by the Office of Mediation Services about available mediation services (see § 18 below).

§ 14 — PPT COORDINATION OF TRANSITION SERVICES

Requires a student's PPT to coordinate transition services during meetings at two points in the student's high school career

Meeting Post-Fourteenth Birthday

Under the bill, if a student's IEP contains a statement of transition service needs, then the student's PPT must do the following at its first meeting after the student's fourteenth birthday:

1. notify each state agency that the student may be eligible, pending parent, guardian, or student permission when applicable, for a transition program or adult program that the agency offers and
2. give the parent, guardian, surrogate parent, or student a listing of these agency programs that includes for each one a plain language description, eligibility requirements, and application deadlines and instructions.

Meeting Two Years Before Transfer of Services

Subsequently, at a meeting approximately two years before a student's anticipated graduation or the end of the school year when the student will turn 22 years old, whichever comes first, the PPT must do the following, pending parent, guardian, or student permission when applicable:

1. re-notify each state agency about the student's potential eligibility for a transition program or adult program that it offers;
2. invite a representative from each of the applicable agencies to

attend the PPT meeting to establish contact with and counsel the parent, guardian, surrogate parent, or student on the process for the student's anticipated services transfer; and

3. allow and facilitate contact and coordination between each applicable agency and the above parties to ease the transfer of services process.

At this meeting, the bill requires the PPT to also give these parties the following: (1) a listing of each adult program for which the student may be eligible, including a plain language description, eligibility requirements, and application deadlines and instructions and (2) help completing an application to any of these programs.

§§ 15 & 16 — DDS-SPECIFIC STUDENT ASSISTANCE

Requires DDS to help eligible special education students with summer employment, case management, and benefit counseling

For any students whose PPT finds that they are potentially eligible for DDS services, the bill requires (1) DDS to help them find and maintain suitable summer employment and (2) DDS and BRS to employ enough staff to give them case management and benefit counseling services.

§ 18 — OFFICE OF MEDIATION SERVICES

Creates a new Office of Mediation Services within SDE to coordinate and oversee special education mediation services and approved mediators

Creation

The bill creates the Office of Mediation Services (OMS) within SDE's Bureau of Special Education. The office must be separate and distinct from any of the department's investigatory or enforcement functions. The SDE commissioner must hire, within available hiring appropriations, one full-time staffer to carry out the office's duties.

Duties

Under the bill, OMS must do the following:

1. expand SDE's mediation services that are offered in place of parties proceeding directly to a special education hearing;

2. oversee and coordinate these services for each school district statewide;
3. maintain a list of special education mediators who (a) meet minimum training requirements the bill sets and (b) are sufficient in number to meet each district's needs;
4. promote mediation's benefits to each local and regional board of education, parents, guardians, and special education advocacy groups;
5. solicit feedback from school boards, parents, and guardians about the mediation process (a) at an open annual meeting, (b) after any mediation ends, and (c) in any other way the office chooses; and
6. create (a) a statement on mediation impartiality and confidentiality, (b) an explanation of the mediation process, and (c) a notice of available mediation services, each further explained below.

OMS-Created Resources

Impartiality and Confidentiality Statement. The bill requires OMS to create and post on its website a statement that, at a minimum, must prohibit office employees and special education mediators from sharing information with the department tasked with investigatory or enforcement functions unless state or federal law requires it.

The bill also requires mediators to remain impartial and maintain the confidentiality of any matter discussed during mediation.

Process Explanation. The bill also requires OMS to create and post on its website a resource that explains the mediation process in plain language, including how to request and prepare for a mediation. This resource must be translated into the state's most commonly spoken languages.

Notice of Available Services. The bill requires OMS to create a

notice that lists available mediation services and includes a link to the plain-language process explanation described above. It also must be translated into the state's most commonly spoken languages and distributed by local or regional boards of education to parents, guardians, and surrogate parents of students requiring special education.

Mediator Oversight

Pre-Service Training Requirements. The bill requires OMS to verify that each mediator on its list has met the following requirements:

1. at least 40 hours of mediation skills training using an OMS-approved module or course and
2. training in special education law using a module or course provided by SDE or another OMS-approved provider for the minimum hours the office requires.

The bill allows the office to waive one of these training requirements for certain applicant mediators under the following conditions:

1. for the mediation skill training requirement, if the applicant submits proof of completing (a) a 40-hour mediation skills training or (b) an equivalent mediation skills course from a higher education institution or
2. for the special education law training requirement, if the applicant (a) has sufficient, direct professional experience in special education law or (b) submits proof of completing a comparable special education law course from a higher education institution.

Additionally, the bill requires OMS to exempt five mediators from the pre-service training requirements entirely. These mediators must have conducted special education for SDE before July 1, 2023. They must be added to the list of mediators that OMS maintains.

In-Service Education Requirements. The bill requires each

approved mediator on the office's list to complete at least two hours of continuing education every two years in subject areas the office prescribes. SDE or any other OMS-approved office may provide the continuing education.

§ 19 — MEDIATION REQUESTS

Specifies the parties that may submit a request to OMS for mediation services and requires OMS to notify relevant parties

The bill allows the following parties to request mediation services at any time through OMS for identification, evaluation, educational placement, or IEP implementation, among other reasons:

1. a parent or guardian of a student requiring special education and related services,
2. a student who requires these services and is either 18 years old or an emancipated minor,
3. a surrogate parent,
4. the DCF commissioner or her designee on behalf of any child in DCF custody, or
5. the local or regional board of education responsible for providing special education and related services to a student.

After OMS receives a mediation request, the bill requires the office to give the requester and other parties subject to the request the following:

1. notice that a conflict exists between the parties;
2. a statement that the mediation process is voluntary, facilitated by a neutral mediator, and nonbinding; and
3. an invitation to all parties to participate.

OMS also must provide a translator at the mediation if any party requests one.

§ 20 — ADMINISTRATIVE HEARINGS

Makes changes in the special education administrative hearing laws on (1) the order in which the parties must testify, (2) publishing the hearing officers' decisions, and (3) using mediation in place of proceeding directly to a hearing

By law, certain aggrieved parties may request an administrative hearing before an SDE-provided hearing officer when the school district responsible for providing special education services proposes or refuses to initiate or change the (1) student's identification, evaluation, or educational placement or (2) free appropriate public education (FAPE) given to the student. The bill modifies the order in which the parties must testify and makes changes on publishing the hearing officers' decisions and using mediation in place of proceeding directly to a hearing.

Testimony Order

By law and unchanged by the bill, the hearing officer or board must hear testimony relevant to the disputed issue by the requesting party and any other party directly involved. In a dispute over providing FAPE, the bill additionally requires that the hearing officer or board hear the testimony of the party responsible for providing special education to the student (e.g., the local or regional board of education or unified school district) before hearing any other party's testimony.

Decision Publishing

Current law requires that the hearing officer's findings of fact, conclusions of law, and decision be written without personally identifiable information about the student who is the subject of the dispute, so that the decisions may be available for public inspection. The bill adds the requirement that the decisions be promptly indexed and published (however, the bill does not define what is considered "prompt").

Mediation Prior to Hearing

By law and unchanged by the bill, mediation is available as a dispute resolution process before seeking an administrative hearing. Current law requires the parties to agree in writing to request a state mediator from SDE. The bill instead allows any one party to request mediation through OMS and does not require the request to be written or signed.

When the mediation has concluded, the bill requires the appointed mediator to certify in writing to OMS, rather than SDE, whether the mediation was successful. It also makes conforming changes related to the mediator's appointment.

Additionally, the bill requires SDE to create and publish online a plain language explanation of the department's process for resolving special education complaints, the administrative hearing process, and how to request and prepare for a hearing. This explanation must be translated into the state's most commonly spoken languages.

§ 21 — STATEWIDE SPECIAL EDUCATION OVERSIGHT PROGRAM

Requires SDE to start a program to oversee school districts' implementation of federal special education law

The bill requires SDE to start a program to oversee the implementation of federal special education law (i.e., the Individuals with Disabilities Education Act (IDEA)) in school districts statewide. The department must use the program to conduct audits of randomly selected special education programs each year. The audits must at least include the following components:

1. interviews of (a) teachers and staff who provide special education services and (b) parents and guardians of children who require these services,
2. unannounced on-site visits, and
3. a review of students' IEPs with parent or guardian approval.

§ 22 — IN-SERVICE TRAINING

Expands required in-service training topics to include laws governing PPT meetings and 504 plans

By law, local and regional boards of education must provide in-service training to their licensed teachers, administrators, and pupil personnel that covers various topics, such as (1) health and mental health risk reduction education, (2) school violence prevention, and (3) cardiopulmonary resuscitation and other emergency life-saving procedures. The bill expands these training topics to include the laws

governing PPT meeting implementation and 504 plans (see BACKGROUND).

BACKGROUND

504 Plans

Section 504 of the federal Rehabilitation Act of 1973 protects students with mental or physical disabilities from discrimination in public schools (29 U.S.C. § 794). Students who receive school accommodations under this law have them memorialized in a written plan, commonly known as a “504 plan.”

Related Bills

sSB 1200, § 4, favorably reported by the Education Committee, grants parents, guardians, students, and surrogate parents the right to have translation services at PPT meetings provided by either (1) a certified interpreter who attends the meeting in-person or is available by phone or through an online platform or (2) an internet website or other electronic application.

COMMITTEE ACTION

Education Committee

Joint Favorable

Yea 44 Nay 0 (03/24/2023)